

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

Illinois Power Agency	:	
	:	
Petition for Approval of the IPA's	:	14-0651
Supplemental Procurement Plan	:	
pursuant to Section 1-56(i) of the	:	
Illinois Power Agency Act.	:	

PROPOSED ORDER

DATED: December 9, 2014

Table of Contents

I.	BACKGROUND	1
II.	STATUTORY AUTHORITY	2
III.	DESCRIPTION OF THE IPA'S PROPOSED PV PLAN.....	2
A.	Regulatory Overview.....	2
1.	RER Fund	2
2.	Procurement Activities	4
3.	Other Provisions.....	6
B.	Products to be Procured	8
C.	Procurement Provisions.....	13
D.	Procurement Process	19
IV.	ISSUES	22
A.	Acceptable Metering (Sections 2.2.2, 3.1, and 4.5)	22
1.	AIC Position	22
2.	ISEA Position	24
3.	SunEdison Position	24
4.	IPA Position	24
5.	Commission Conclusion.....	25
B.	Installer Certification (Section 2.3.3)	25
1.	AIC Position	25
2.	ISEA Position	26
3.	Staff Position	26
4.	IPA Position	26
5.	Commission Conclusion.....	27

C.	Resource Selection - New vs. Existing PV Systems (Section 3.1).....	27
1.	AIC Position	27
2.	ComEd Position	28
3.	ISEA Position	30
4.	SunEdison Position	31
5.	ELPC Position	33
6.	CUB Position.....	33
7.	Staff Position	34
8.	IPA Position	34
9.	Commission Conclusion.....	37
D.	Resource Selection - PV Facility Size (Section 3.1)	37
1.	AIC Position	38
2.	ComEd Position	38
3.	ISEA Position	38
4.	SunEdison Position	40
5.	ELPC Position	42
6.	Staff Position	43
7.	IPA Position	44
8.	Commission Conclusion.....	47
E.	Metering of Generation Systems (Section 3.1)	49
F.	"New" System Qualification (Sections 3.1 and 4.1).....	50
G.	Small System Third-Party Administrator (Section 4.2.1)	50
1.	ISEA Position	50
2.	ComEd Position	51
3.	Staff Position.....	52

4.	IPA Position	52
5.	Commission Conclusion.....	53
H.	Credit Requirements (Section 4.3).....	54
I.	Tracking and Transfer of RECs (Section 4.5)	55
V.	FINDINGS AND ORDERING PARAGRAPHS.....	56

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Illinois Power Agency	:	
	:	
Petition for Approval of the IPA's	:	14-0651
Supplemental Procurement Plan	:	
pursuant to Section 1-56(i) of the	:	
Illinois Power Agency Act.	:	

PROPOSED ORDER

By the Commission:

I. BACKGROUND

As set forth more specifically therein, Section 1-56(i) of the Illinois Power Agency Act ("IPA Act"), 20 ILCS 3855/1-1 et seq., requires the Illinois Power Agency ("IPA") to prepare a supplemental photovoltaic ("PV") procurement plan ("PV Plan"), which is to be filed with the Illinois Commerce Commission ("Commission") for approval. The IPA filed its PV Plan with the Commission on October 28, 2014. Under the new statutory provisions, the IPA is to procure renewable energy credits ("RECs") from PV sources using \$30 million from the IPA's Renewable Energy Resources Fund ("RER Fund").

Following the receipt of the IPA's PV Plan, the following entities filed petitions to intervene: Ameren Illinois Company ("AIC"), Citizens Utility Board ("CUB"), Commonwealth Edison Company ("ComEd"), Environmental Law and Policy Center ("ELPC"), Illinois Solar Energy Association ("ISEA"), and SunEdison, Inc. ("SunEdison"). The Administrative Law Judge ("ALJ") granted each petition to intervene. The Attorney General entered an appearance on behalf of the People of the State of Illinois. Commission Staff ("Staff") participated as well. On November 3, 2014, AIC, ComEd, and ISEA each filed objections to the PV Plan as provided for under Section 1-56(i)(2) of the IPA Act. Staff also submitted a filing simply indicating that it has no objections to the PV Plan as filed on October 28, 2014.

On November 7, 2014, the ALJ notified parties pursuant to Section 1-56(i)(2) that it had been determined that a hearing is not necessary in this matter. Pursuant to a schedule issued by the ALJ, the following entities each submitted responses to objections: ComEd, CUB, ELPC, IPA, ISEA, Staff, and SunEdison. Thereafter, the following entities each filed replies to responses: AIC, ComEd, CUB, ELPC, IPA, and Staff. ISEA and SunEdison filed a joint reply to responses.

A Proposed Order was served on the parties.

II. STATUTORY AUTHORITY

Section 1-56(i)(1) of the IPA Act states in part:

Within 90 days after the effective date of this amendatory Act of the 98th General Assembly, the Agency shall develop a one-time supplemental procurement plan limited to the procurement of renewable energy credits, if available, from new or existing photovoltaics, including, but not limited to, distributed photovoltaic generation. Nothing in this subsection (i) requires procurement of wind generation through the supplemental procurement.

Renewable energy credits procured from new photovoltaics, including, but not limited to, distributed photovoltaic generation, under this subsection (i) must be procured from devices installed by a qualified person. In its supplemental procurement plan, the Agency shall establish contractually enforceable mechanisms for ensuring that the installation of new photovoltaics is performed by a qualified person.

Section 1-56(i)(3) provides:

The Commission shall approve the supplemental procurement plan of renewable energy credits to be procured from new or existing photovoltaics, including, but not limited to, distributed photovoltaic generation, if the Commission determines that it will ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service in the form of renewable energy credits at the lowest total cost over time, taking into account any benefits of price stability.

III. DESCRIPTION OF THE IPA'S PROPOSED PV PLAN

A. Regulatory Overview

1. RER Fund

Effective June 30, 2014, Public Act 98-672 calls for the IPA to spend up to \$30 million from the RER Fund on the procurement of RECs from PV installations. Section 1-56 of the IPA Act creates the RER Fund, a special fund in the Illinois State Treasury administered by the IPA to procure renewable energy resources.

The RER Fund is funded through payments made by Alternative Retail Electric Suppliers ("ARES") to satisfy statutory renewable energy resource procurement obligations manifest in Section 16-115D of the Public Utilities Act ("PUA"), 220 ILCS 5/1-101 et seq. The RER Fund does not consist of payments made by customers taking supply from their electric utility. Instead, to support renewable energy resource procurement, electric utility supply customers are billed a surcharge for renewable

energy procurement. Money collected pursuant to that surcharge comprises the Renewable Resource Budget ("RRB") – separate and distinct from the RER Fund – for that utility to meet the utility's state renewable energy portfolio standard ("RPS") obligations. Alternatively, for customers taking supply from an ARES, the ARES is responsible for making an alternative compliance payment ("ACP") for no less than 50% of its compliance obligation, with its payment rate determined by results from the procurement of renewable energy resources using the RRB. These ACPs are generally made in conjunction with an ARES' self-procurement of the remainder of its renewable energy resource obligation to meet compliance with Illinois' RPS.

The balance of the RER Fund is a function of ACPs made by ARES into the fund and withdrawals made by the IPA in connection with the procurement of renewable energy resources. The IPA indicates that as more utility customers have migrated to ARES, primarily through municipal aggregation, the balance of the utilities' renewable resources budgets has dwindled significantly while the balance of the RER Fund has grown considerably. Due to constraints on spending the RER Fund, the IPA reports that the procurement of renewable energy resources using the RER Fund has not kept pace with the rapid escalation of payments made into the fund, resulting in a total balance of \$128,587,887.83.

The IPA identifies five constraints limiting expenditures from the RER Fund. First, unlike with the utility RRBs, the RER Fund may only be used to procure RECs. While the term "renewable energy resources" is defined in the IPA Act as RECs or both renewable energy and associated RECs (see 20 ILCS 3855/1-10), Section 16-115D(d)(4) of the PUA provides that "alternative compliance payments . . . shall be deposited in the Illinois Power Agency Renewable Energy Resources Fund and used to procure renewable energy credits."

Second, the IPA states that Section 1-56(c) of the IPA Act calls on the IPA to use the RER Fund to "procure renewable energy resources at least once each year in conjunction with a procurement event for electric utilities required to comply with Section 1-75 of the Act." Given the IPA's strategy of advance purchases to hedge load requirements and the unexpectedly high levels of migration to ARES, the IPA indicates that corresponding energy procurement events for electric utilities did not occur in 2013. The IPA relates that this left it without a procurement event "in conjunction with" which it could procure RECs using the RER Fund.

Third, the IPA explains further Section 1-56(d) of the IPA Act requires that "the price paid to procure renewable energy credits" using the RER Fund "shall not exceed the winning bid prices paid for like resources procured for electric utilities required to comply with Section 1-75 of this Act." The IPA claims the lack of a conjoining procurement event has left it without a statutorily envisioned price ceiling for "like resources," further constraining procurement using the RER Fund.

Fourth, the IPA indicates that the IPA Act articulates a preference for longer-term contracts using the RER Fund, presumably to provide a stable stream of revenue

necessary to encourage the development of new resources. Section 1-56(c) of the IPA Act calls for the IPA to, “whenever possible, enter into long-term contracts on an annual basis for a portion of the incremental requirement for the given procurement year.” Similarly, Section 1-56(b) of the Act requires that any contracts for resources from distributed generation (“DG”) must run a minimum of 5 years. But due to unsettled and dynamic load migration between utility and ARES service, the IPA says it must approach long-term contracting with prudence and care, as the RER Fund’s future balance is subject to the whims of future customer switching.

Fifth, the IPA states that Section 1-56(b) of the IPA Act contains delineated targets for the procurement of RECs from specified types of generation: at least 75% of RECs procured must come from wind generation, at least 6% from PV; and at least 1% from DG. As a result, even assuming other statutory constraints were addressed and the IPA felt confident in its projected future budget, the IPA claims it is unclear whether the IPA could simply conduct a “solar procurement” event at scale in isolation.

2. Procurement Activities

The IPA notes that Section 1-56(i) of the IPA Act does not address the timeline governing any procurement event(s), nor does it require that all resources procured pursuant to the PV Plan be procured in a single procurement event. The IPA indicates that sometime after the Commission has entered its order approving (or approving with modification) the PV Plan, the IPA’s Procurement Administrator will begin the process of developing standard contract forms for REC supplier contracts. This process occurs in consultation with the IPA, the Commission, and other interested parties and is subject to Commission oversight. These contracts must “meet generally accepted industry practices” and “include any applicable State of Illinois terms and conditions that are required for contracts entered into by an agency of the State of Illinois.” (20 ILCS 3855/1-56(i)(4)(D)) The IPA provides a preliminary set of applicable state terms and conditions in Appendix 6.3 to the PV Plan and relays that draft contract forms will be made available for comment, with disputed terms and conditions brought to the Commission for resolution.

Section 1-56(i) of the IPA Act requires the procurement of “renewable energy credits, if available, from new or existing photovoltaics, including, but not limited to, distributed generation.” The IPA relates that the IPA Act does not define the terms “new” and “existing,” leaving the IPA to create a workable definition. The IPA understands the IPA Act’s “new or existing” language to allow for the procurement of RECs from exclusively new resources, exclusively existing resources, or any balance between the two categories at its discretion.

The IPA points out that the procurement of RECs from “new” systems carries a unique requirement – the procurement of RECs from a “new” PV device must be from a device installed by a “qualified person.” As detailed in Section 1-56(i)(1) of the IPA Act, a “qualified person” must meet specified training requirements and must perform the “major activities and actions” involved in the installation. The IPA understands that it is

tasked with establishing “contractually enforceable mechanisms” to ensure that RECs purchased from “new” systems are from only systems installed by a “qualified person.”

The IPA understands the requirement that it procure RECs from PV “including, but not limited to, distributed generation” as a statutory mandate that, at a minimum, some amount of RECs from DG be included in this procurement. The IPA explains that a generation source is considered a “distributed renewable energy generation device” under Section 1-10 of the IPA Act if it is:

- Powered by wind, solar thermal energy, PV cells and panels, biodiesel, crops and untreated and unadulterated organic waste biomass, tree waste, and hydropower that does not involve new construction or significant expansion of hydropower dams;
- Interconnected at the distribution system level of either an electric utility, ARES, municipal utility, or a rural electric cooperative;
- Located on the customer side of the customer’s electric meter and is primarily used to offset that customer’s electricity load; and is
- Limited in nameplate capacity to no more than 2,000 kilowatts (“kW”).

Section 1-56(i)(1) further provides that “[t]o the extent available,” half of the RECs procured from distributed renewable energy generation “shall come from devices of less than 25 kW in nameplate capacity.” The IPA notes that unlike the resource-specific carve-outs applicable to the RER Fund and found in the state’s RPS, this requirement creates a target of 50% and not a minimum required percentage. Additionally, the IPA observes that the owner of a participating DG system “shall have the ability to measure the output of his or her distributed renewable energy generation device.” (20 ILCS 3855/1-56(i)(1)) The IPA understands this requirement to call for a utility-grade electric meter on any DG system from which RECs are procured.

According to the IPA, contracts for RECs from DG resources must be at least five years in length. To minimize administrative burdens, the law allows the IPA to “solicit the use of third parties to aggregate distributed renewable energy.” (20 ILCS 3855/1-56(i)(1)) These aggregators act as counterparties with the IPA in a contract for the delivery of RECs, while maintaining contracts with system owners granting them transferrable rights to RECs.

The IPA indicates it has chosen to retain NERA Economic Consulting (“NERA”), the IPA’s Procurement Administrator for procurement events conducted pursuant to its annual procurement plans, for the solar REC (“SREC”) procurements conducted under its PV Plan. The IPA’s Procurement Administrator is required to “disseminate information to potential bidders to promote a procurement event, notify potential bidders that the Procurement Administrator may enter into a post-bid price negotiation with bidders that meet the applicable benchmarks, provide supply requirements, and otherwise explain the competitive procurement process,” including publication of the procurement event. (20 ILCS 3855/1-56(i)(4)) The Procurement Administrator shall also

“design and issue requests for proposals” in accordance with the approved PV Plan. (20 ILCS 3855/1-56(i)(4)(E))

Section 1-56(i) of the IPA Act requires the procurement itself to be conducted using “sealed, binding commitment bidding with pay-as-bid settlement, and provision for selection of bids on the basis of price.” The IPA claims that this requirement restricts its ability to develop a fixed-price standard offer, a feature that some commenters believe would carry value to promote participation from small systems. Given the corresponding requirement that the IPA procure 50% of DG RECs from systems below 25 kW in size, the IPA believes that this requirement and the requirement for the “selection of bids on the basis of price” can be properly balanced by procuring on the basis of price within each individual market segment (<25 kW, and 25 kW to 2 MW) - i.e., selecting the next most competitive bid within a market segment when that segment represents below half of the expected RECs to be delivered (to the extent such a bid is available) as part of a single procurement. The IPA explains that this means that RECs from a <25 kW system featuring a higher bid price can be selected ahead of RECs from a 25 kW to 2 MW system featuring a lower bid price, but only if that selection is necessary to reach the target 50% of DG RECs from <25 kW systems. Bidders may not designate different REC prices for the RECs generated from a single system, and in order to meet the budget, the marginal bidder in the evaluation of bids could receive a contract for only a portion of RECs from a single system and will have the option of whether or not to accept that award. The IPA says a similar method has been used by the IPA and its Procurement Administrator to select wind resources to satisfy the 75% target in past renewable energy resources procurement events under Section 1-75 of the IPA Act.

3. Other Provisions

In addition to on-site use, the IPA claims that another way in which owners of PV systems qualifying as DG may receive value for energy generated is through net metering. Under Section 16-107.5(b) of the PUA, “net metering” refers to “the measurement, during the billing period applicable to an eligible customer, of the net amount of electricity supplied by an electricity provider to the customer's premises or provided to the electricity provider by the customer.” Through net metering, customers receive credit for electricity generated using a PV system but not used by the customer. If the PV system produces more energy than the customer uses, net metering allows the customer to deliver that energy to the electric grid to financially offset the customer's net consumption at other times (when the customer uses more than the PV system produces).

The IPA states that net metering programs are provided by the system owner's electricity provider, which may be the customer's electric utility or ARES. Systems up to 2 megawatts (“MW”) in size may participate in their electricity provider's net metering program, although the level of value received varies based on the customer's rate classification (a function of the customer's status – residential, commercial, etc. – and peak load size). For customers in rate classes that have not yet been deemed

competitive (primarily residential and small commercial customers), these customers may receive net metering credit calculated at the retail electric rate. The IPA says because it also recovers the costs of the transmission and distribution systems, the retail rate exceeds the commodity value of the electricity produced, providing more value back to a system owner for energy production. While system owners may see value in participating in net metering, the IPA indicates a distributed PV system owner's participation in a net metering program is not required for that system's participation in the IPA's supplemental PV procurement process.

The IPA reports that Section 1-56(i) of the IPA Act is silent on the topic of interconnection. The IPA explains that distributed PV systems must be behind the meter of a regulated utility, municipal utility, or rural electric cooperative located within Illinois. DG systems interconnecting with a regulated utility must follow the interconnection requirements outlined in 83 Ill. Adm. Code 466, "Electric Interconnection of Distributed Generation Facilities," ("Part 466") and 83 Ill. Adm. Code 467, "Electric Interconnection of Large Distributed Generation Facilities," ("Part 467") which in part require DG system owners to submit an interconnection request with the electric distribution company with which the system intends to interconnect. For systems governed by Parts 466 and 467, the IPA says all system owners should use interconnection request forms approved by the Commission and are responsible for all applicable fees to the applicable electric distribution company. For systems interconnecting with a municipal utility or rural electric cooperative, the IPA indicates the system owners should follow that entity's specific interconnection requirements and process.

As mentioned above, any "new" PV system from which the IPA procures RECs must be installed by a "qualified person." The criteria for qualification as a "qualified person" are set forth in detail in Section 1-56(i) of the IPA Act. The IPA points out that the "qualified person" criteria outlined in Section 1-56(i) of the IPA Act is distinct from, and arguably narrower than, the DG installer certification rules found in 83 Ill. Adm. Code 468, "Distributed Generation Installer Certification," ("Part 468") which also contain a "qualified person" definition. The IPA states that by operating in Illinois, installers of distributed PV systems participating in this procurement are still subject to the Commission's certification requirements as manifest in Part 468 and Section 16-128A of the PUA.

The IPA states that systems that participate, or have participated, in grant, incentive, rebate, or tax credit programs may still qualify for participation in the IPA's PV Plan so long as that participation does not include the sale or assignment of RECs. The IPA encourages participation in alternative programs. The IPA claims that grant, incentive, rebate, or tax credit programs help lower the installed capital costs of a DG system, and thereby potentially lower the price that system owners or aggregators will bid into the supplemental PV procurement. The IPA believes this is consistent with the Section 1-56(i) goal of procuring the lowest total cost resources over time.

The IPA reports that the Federal Solar Investment Tax Credit (“ITC”) currently provides a 30% tax credit for PV systems on residential and commercial properties. This tax credit is scheduled to decrease to 10% in 2017. Since the tax credit that an owner of distributed solar generation would receive is not for the procurement of RECs, the IPA says owners that take advantage of the ITC remain eligible for the PV Plan.

The IPA notes the Illinois Department of Commerce and Economic Opportunity (“DCEO”) offers two programs which provide additional incentives for distributed PV systems. DCEO’s Solar and Wind Energy Rebate Program encourages utilization of smaller-scale distributed solar and wind energy systems in Illinois through project rebates. For PV systems, the IPA says the rebates are capped as follows:

- Residential applications: \$1.50/watt or 25% of project costs.
- Commercial applications: \$1.25/watt or 25% of project costs.
- Not-for-profits and public sector applications: \$2.50/watt or 40% of project costs.

The IPA states that the maximum project rebate is \$10,000 for homeowners, \$20,000 for commercial installations, and \$30,000 for public sector and non-profit entities. This program features an early October application deadline.

To support the development and implementation of larger-scale distributed solar thermal, PV, and wind energy systems in Illinois, the IPA states that DCEO also administers a Large Distributed Solar and Wind Grant Program. For PV systems, rebates are capped as follows:

- Commercial applications: \$1.25/watt or 25% of project costs.
- Not-for-profits and public sector applications: \$2.50/watt or 40% of project costs.

The maximum grant award is \$250,000, and the Illinois Energy Office has allocated a budget of approximately \$2,500,000 to this program. This program features a competitive solicitation process with applications due to DCEO by mid-October.

For both DCEO programs, the IPA indicates participation is limited to “customers of an electric or gas utility that impose the Renewable Energy Resources and Coal Technology Development Assistance Charge.” As neither program involves the sale, transfer, or assignment of the PV system’s RECs, the IPA notes that participation in either program is compatible with participation in the IPA’s supplemental PV procurement.

B. Products to be Procured

As noted above, Section 1-56(i)(1) of the IPA Act provides, in part, as follows:

Within 90 days after the effective date of this amendatory Act of the 98th General Assembly, the Agency shall develop a one-time supplemental procurement plan limited to the procurement of renewable

energy credits, if available, from new or existing photovoltaics, including, but not limited to, distributed photovoltaic generation.

The IPA interprets this language to mean that it has the discretion to (1) determine the balance of resources between new and existing PV resources and (2) determine the appropriate balance of SRECs procured between DG and utility-scale generation (i.e., PV systems on the other side of, not “behind,” a regulated utility, municipal utility, or rural electric cooperative meter). After review and analysis of the relative value of all available options, the IPA has determined that the supplemental PV procurement should be for RECs from “new” DG PV systems, with the goal that “to the extent available” half of DG RECs procured come from systems under 25 kW. The IPA believes that by focusing on the development of “new” PV systems, it is best positioned to meet the statutory goal of producing the “lowest total cost over time” and maximize the value of pooled ACPs in the RER Fund. The IPA emphasizes that distributed PV systems must be behind the meter of a regulated utility, municipal utility, or rural electric cooperative located within Illinois.

Based upon input from stakeholders, the IPA believes that the \$30 million available for this supplemental PV procurement is insufficient to provide an incentive for the development of new utility scale PV systems, and is thus best used to encourage the development of new PV DG systems. Additionally, as the IPA is not entering into bundled REC/energy contracts or power purchase agreements through this procurement (and is statutorily prohibited from purchasing anything other than RECs using the RER Fund), the IPA suggests REC-only contracts by themselves may provide an insufficient incentive for the development of new utility-scale generation. The IPA also suggests DG systems, alternatively, may receive sufficient value for energy through both on-site usage and net metering – which, coupled with REC contracts and other incentives (tax credits, grants/rebates, etc.), may drive the development of new systems and maximize the impact and value created through funds contributed to the RER Fund. The IPA notes that, due to the definition of DG in the IPA Act, these systems will be located within Illinois and therefore provide the maximum economic development value for the State.

For purposes of this supplemental PV procurement, the IPA says the size of a system will be defined as the nameplate DC rating of the PV system on a kW basis. Systems must be Underwriters Laboratories (“UL”) listed or Intertek Group plc (“ETL”) listed. They must also include a utility-grade meter for tracking the output from the system. Under the IPA’s PV Plan, systems must register with either Generation Attribute Tracking System (“GATS”) or the Midwest Renewable Energy Tracking System (“M-RETS”) for the issuance of RECs.

The IPA proposes that the supplemental PV procurement consist of three procurement events with a fourth contingency event available if needed. For the purpose of this supplemental PV plan, the IPA explains that a system will be considered “new” if it has been energized on or after the approval date of the plan. Only “new” systems will be eligible to participate in procurement events of this supplemental PV

procurement, and all must comply with the installation provisions regarding the use of “qualified persons.”

The IPA states that in evaluating bids in procurement events, the Procurement Administrator will apply a standard capacity factor to determine the number of RECs corresponding to a given system size. The IPA indicates that the bid evaluation will be conducted with the goal of ensuring that, to the extent available, at least half of the RECs procured are from systems of under 25 kW. To increase breadth of participation, the IPA proposes for the maximum size of a system qualified to supply RECs to be 500 kW for the first procurement event. For subsequent procurement events, the IPA proposes systems may be up to 2 MW in size.

Fearing that intermediately-sized systems may not be competitive with systems up to 2 MW in size in a competitively bid process, the IPA notes some commenters suggested a need to accommodate intermediately-sized systems through the introduction of a separate procurement sub-category. While the IPA understands there may be different economic considerations for intermediate sized DG systems than for large systems, the IPA is not convinced at this time that a separate procurement sub-category is needed. The IPA also asserts that the plain language of Section 1-56(i)(1) supports, if not mandates, the procurement of potentially more expensive RECs from <25 kW systems through an express procurement target for systems below 25 kW in size. No other size-based delineation is made in the law. While the IPA does not believe it is precluded from introducing a separately-sized sub-category, it is not directed to do so and does not believe a sufficiently compelling justification for preferring RECs from mid-sized systems has been offered.

While the actual evaluation of bids will use only two categories of DG systems (<25 kW, and 25 kW to 2 MW), the IPA recognizes that the 25 kW to 2 MW class may not be completely homogeneous. The IPA will track the number of projects in various categories (0-25 kW, 25-100 kW, 100-500 kW, and 500-2,000 kW) and report these publicly to the extent possible. The IPA will use this information in the design of its contingency procurement event and in designing future procurement events for DG, which may include procurement from one of these additional subcategories.

The IPA believes that the priorities outlined in its PV Plan meet the goals envisioned by the General Assembly when it enacted Public Act 98-672, which created the new Section 1-56(i) of the IPA Act. The IPA also claims it is consistent with many of the provisions in other states that procure PV DG resources. By focusing on new DG projects, the IPA believes this supplemental PV procurement will maximize the economic development opportunities for Illinois while ensuring that there are opportunities for participation by interested households and businesses.

By holding a set of procurement events over a period of time, the IPA says the plan allows for the market to expand in a more measured manner, avoiding elements of the “boom/bust cycle” that has been seen in other states’ PV procurements. In the

same manner, the IPA believes that it is providing a model that will allow a combination of types of resources in various stages of project development to participate.

Through the workshop process and in taking comments, the IPA says it has received feedback that it should proceed mindful of the need to ensure broad participation and avoid inequities. This feedback has manifested itself in a variety of proposals from commenters. Among them include the following: specific carve-outs for models like community solar, which allow for broader ownership participation in solar systems; geographic balancing of participating system locations; ensuring that some participating systems are located in traditionally-underserved low income areas (and, conversely, that participating systems are not exclusively focused in high income areas); and the need for a procurement model focused on supporting Illinois businesses and panel manufacturing rather than large, out-of-state, "scaled" solar companies.

The IPA sympathizes with the interest of many non-homeowners in supporting PV development through community solar development or other means, as well as in specific incentives for placing solar generation on affordable housing. The IPA notes these concerns were raised in comments on the September 29, 2014 draft PV Plan, although no specific alternative wording or proposals were suggested. The IPA states that its PV Plan is aimed at providing incentives for the investment in, development of, and provision of sites for, distributed PV generation. The IPA believes that community solar and other project types are accommodated through its competitive procurement process, but does not believe adequate justification has been provided for special treatment through a carve-out, set-aside, or other means.

The IPA states that it is sensitive to concerns on the need to ensure broad participation and avoid inequities, but considers the PV market in Illinois a nascent, developing market. The IPA asserts its PV Plan can not address all the needs of the market, or overcome all of the barriers. The IPA claims that its PV Plan can, and does, set into motion a series of events in which \$30 million from the RER Fund is used to the full extent possible to purchase SRECs through a measured, open, and competitive process. Through this process, the IPA hopes to provide a template and learning opportunity for the ongoing development of future longer-term plans to support the sound, equitable development of solar resources in Illinois.

The IPA notes that concurrent with the development of its PV Plan, it has also developed its 2015 Annual Procurement Plan ("2015 Plan") for ComEd and AIC. In that plan, the IPA has proposed a September 2015 DG procurement to assist ComEd and AIC in meeting their currently unmet requirements under the RPS using money collected from the utilities' hourly service customers. Additionally, the IPA indicates it has proposed a one-year SREC procurement using funds accumulated in the RRB.

The IPA believes that procurement of RECs from existing systems is better accomplished through those procurement processes in the 2015 Plan than through its PV Plan. The IPA claims the ability of existing resources to deliver RECs to the utilities with more immediacy (and thus more expediently meet statutory compliance targets)

makes existing resources better suited for those procurements. Additionally, for the IPA's proposed DG procurement, the IPA suggests existing resources may be more easily organized into procurement blocks sufficient to meet Section 1-75(c)'s statutory 1 MW aggregation block. The IPA explains that the current pool of existing DG resources in Illinois is not large and the IPA believes that the targets for the utility procurements should be sufficient to allow for participation for most, if not all, resources that chose to participate (subject to submitting bids at or below the procurement benchmark). The IPA's proposed DG procurement for the utilities will require systems to be identified prior to bidding and to commence delivery of RECs by the start of the 2016-2017 delivery year. The IPA states that a system that is part of a successful bid in a procurement event held pursuant to the PV Plan may not also be part of a bid for the utility DG procurement (and vice versa). The IPA adds that a system that is part of an unsuccessful bid may bid in the other procurement process.

The IPA states that the PV Plan is for the purchase of SRECs from PV DG systems. The IPA proposes for contracts to be based upon the delivery of certain quantities of SRECs over a five-year period at a price per REC set through competitive sealed bids selected by price and an effort to balance system size. RECs that are purchased shall be created in accordance with the operating rules or procedures of either GATS or M-RETS. As the IPA Act specifically discusses categorizing systems that provide RECs by system size, the IPA proposes that a standard capacity factor be used for calculating the number of RECs that would be produced over the life of the contract. Based on feedback received in comments on its draft PV Plan, the IPA proposes a standard capacity factor of 14.38% for converting the direct current nameplate capacity of a PV system into the number of RECs that the system is expected to produce. The IPA says a standard capacity factor allows for ease of bid evaluation and reduces the administrative burden on bidders by limiting the parameters they must provide for bid evaluation.

The IPA says the manner by which the standard capacity factor is used to convert the nameplate capacity of a system into the RECs bid into the procurement event can be illustrated as follows. A 10 kW system would be deemed to produce between 12 and 13 RECs per year, or 63 RECs during the contract term ($0.010\text{MW} \times 14.38\% \times 8760 \text{ hours} \times 5 \text{ years} = \text{about } 63 \text{ RECs}$). The bidder of that 10 kW system would offer 63 RECs and would provide a bid price in \$/REC that applies to all 63 RECs. The IPA claims this system for denominating bids is common in DG programs and should be familiar to industry participants.

The IPA states that bids utilizing systems 25 kW to 2 MW in size must identify the specific systems as part of the bid. For systems below 25 kW, bids may include specific systems or blocks of RECs that will subsequently be converted into commitments for specific systems. The IPA asserts this methodology will allow the Procurement Administrator to evaluate and benchmark bids based upon a price per REC.

According to the IPA, the entire five-year REC output of a system using the standard capacity factor must be included in a bid. The IPA will not accept bids for only

a portion of the capacity of a larger system. Under the terms of the contract, title to all RECs from the system will be transferred to the IPA until the system budget is exhausted or until the five years have expired, whichever comes first. The IPA indicates that there may be an option for the purchase of additional RECs at the original bid price if funds are available. The entire capacity of the system will be considered when determining the eligibility of a system to participate in a given procurement event or to qualify for the <25 kW category.

C. Procurement Provisions

Under the IPA's proposal, contracts entered into from winning and approved bids will provide for payment for RECs for a five-year period starting at the time of the system energization date (defined as the first meter read registered in the applicable tracking system). RECs must be delivered via either the GATS or M-RETS tracking system and must be transferred to the IPA's account prior to invoicing. The IPA will only retire RECs once payment has been made. If for any reason the IPA is unable to pay for RECs delivered to it, the IPA will return those RECs to the seller. Invoices will be accepted on a quarterly basis and the IPA will pay for RECs only upon delivery and invoice; its contracts will not feature payments prior to REC delivery (such as pre-payment at the execution of a contract or when a system becomes energized).

The IPA proposes that contracts will be for up to the amount of RECs awarded. The IPA, at its own discretion and based upon the availability of funds, will offer to purchase additional RECs from systems that deliver all of their contracted RECs prior to the end of the five-year period. Any such offer will be at the same REC price as the original bid, will have to be executed prior to the end date of the original contract, and will not include an extension of time for REC deliveries. Should a system deliver fewer than the contracted quantity of RECs during the five-year contract period, the IPA will be under no obligation to extend the contract past the five-year term in order to allow for the late delivery of remaining RECs.

The IPA states that following the provisions of Section 1-56(i)(4)(D) of the IPA Act, further details regarding the contracts will be developed by the Procurement Administrator in consultation with the IPA, the Commission, and other interested parties and subject to Commission oversight, after the PV Plan is approved by the Commission. Contracts will also include a set of terms, conditions, and certifications required by the State. The IPA indicates that Appendix 6.3 to the PV Plan contains a sample of these provisions, which it says may be subject to modification before contract execution based on any changes in state law.

With regard to the two size-based categories of systems, the IPA plans to use different qualification processes due to the market differences for the two categories. The IPA understands that the project/customer acquisition and development process for smaller systems, most notably at the residential scale, is fundamentally different from the process for larger systems. In order to allow sufficient participation by developers of smaller systems (e.g., in the <25 kW category), the IPA will accommodate bids that

include a forecast of REC volume to be provided by systems not yet developed at sites or hosts not yet identified. The IPA calls this “speculative bidding,” or “speculative RECs.” The IPA indicates that information on the specific installations will not be required at the time of bidding, thus allowing the speculative bidder time to convert the winning bid quantities into concrete systems. The IPA notes, however, that a winning bidder will be required to provide concrete information on actual systems within six months of the procurement event. Failure to do so will result in the forfeiture of the volume associated with any unidentified systems, the associated deposit will be lost, and the budgeted payments for RECs will be set aside for a subsequent procurement.

For offers of larger systems (25 kW and above), the IPA does not believe such flexibility is required for the development of PV systems suitable to participate in the proposed procurement events. Thus, for larger systems, the IPA states that speculative bidding will not be allowed.

Under the IPA’s proposal, a bidder may bid to provide RECs from systems under 25 kW at a uniform price per REC. Bids may include RECs from identified new systems, “speculative” bids for a quantity of RECs, or a combination of the two. The minimum bid size shall be 500 RECs, which the IPA says roughly approximates the REC output of sixteen 5 kW systems. In order to maximize participation, the first procurement event will feature a bid limit of 5,000 RECs per bidder of systems under 25 kW.

Within six months after the procurement event, a winning bidder must provide evidence to the IPA that all systems associated with the awarded bid have been identified (including site, host, and customer, where applicable), and are on track to begin generation of RECs as of the date stated on the contract. The IPA states that evidence may include, but is not limited to, letters of intent, signed contracts, installation certification, site data and information, system ownership information, interconnection application, and net metering applications. A bidder may request an extension of up to three months for demonstrated project delays outside their reasonable project development control (i.e., an event of force majeure); that extension will be granted only at the IPA’s discretion.

From the point where specific systems are identified, the IPA indicates a winning bidder will have 12 months to demonstrate to the IPA that the system has been completed and energized and registered in an applicable tracking system to deliver RECs to the IPA. The IPA emphasizes that a bidder may request a six-month extension upon demonstration of project delays that do not otherwise jeopardize the successful completion of the project; any such extension will be granted only at the IPA’s discretion. As the winning bidder provides the IPA with documentation of specific systems under development, the IPA will track the projected RECs for each winning bidder.

Should a bidder fail to provide evidence of system development for speculative bids within the specified timeframe, the prorated share of the contract with the IPA shall

be considered voided (in other words, the contractual REC volume will be reduced to the REC volume associated with identified systems), the deposit associated with unidentified RECs forfeited, and the budgeted payments for those RECs will be restored for a subsequent procurement. The IPA notes a higher deposit will be required for speculative RECs and the deposit will be reduced (with the amount of the reduction reimbursed) once the bidder has identified systems for speculative RECs.

For bids in the 25 kW and over category, the IPA proposes that a bidder must identify the specific system(s) that will provide the RECs prior to bidding. Evidence regarding the systems may include, but is not limited to, letters of intent, signed contracts, interconnection or net metering applications, and local permits. The minimum bid size shall be 500 RECs, which roughly approximates to the REC output of two 40 kW systems. A winning bidder for larger systems (or for non-speculative <25 kW systems) will have 12 months from the bid date to demonstrate to the IPA that the systems bid have been completed, energized, and registered in an applicable tracking system to deliver RECs to the IPA. The IPA says a bidder may request a six-month extension upon demonstration of project delays that do not otherwise jeopardize the successful completion of the project; that extension will be granted only at the IPA's discretion. Requests will be determined by the IPA on a case by case basis, but will be limited to circumstances outside the bidder's control. Such circumstances may include delays in approval of interconnection requests, issuing of permits, and other events driven by delays in third-party processes. Should a system not be completed in the required timeframe, the prorated share of the bidder's contract with the IPA shall be considered voided, the associated deposit will be lost, and the budgeted payments for RECs will be set aside for a subsequent procurement.

The IPA states that should a system that is included in a winning bid not be developed, the winning bidder may request to substitute the system with one or more systems so long as the total size is of similar nameplate capacity. The substituted system(s) must meet all the same requirements (e.g., use of "qualified person" for installation, qualifying as a "new" system, same development deadlines, not used to support prior awards) as the originally proposed system. The RECs to be delivered by the substitute system will be calculated using the standard capacity factor and the nameplate capacity of the substitute system. A substitute system will not be eligible to provide more RECs than the originally proposed system. Approval of such requests is at the discretion of the IPA.

According to the IPA, the credit requirement for participating in this procurement is to provide a refundable deposit featuring the following characteristics:

- Form: the refundable deposit may be a cash deposit or an irrevocable standby letter of credit ("Letter of Credit") delivered as part of the bid registration process.
- Amount: the amount of the refundable deposit is \$16/REC for speculative RECs and \$8/REC for RECs associated with identified systems. Based upon the

standard capacity factor, this equates to approximately \$100/kW for speculative systems and \$50/kW for identified systems.

- Delivery: for both speculative and non-speculative RECs, the delivery schedule of the refundable deposit requires half of the refundable deposit amount associated with the bid due as part of the bid, and the balance of the refundable deposit amount due within 14 days after bid acceptance (with any remaining portion not required for delivery from unsuccessful bids). Deposits due after bid acceptance may be in cash or in the form of a new or a properly amended Letter of Credit.

The IPA states that unsuccessful bidders who provide a cash deposit will have their deposits refunded. For a bidder who only is successful for a portion of their bid, the refund will be prorated. The IPA will endeavor to process refunds in a timely manner, but notes that payment of the refunds are processed through the Illinois Office of the Comptroller and thus the IPA can not guarantee the exact refund disbursement schedule.

The IPA indicates that for winning bids, deposits associated with RECs from winning systems will be returned as part of the first payment for RECs. Any system that is not successfully developed will forfeit its deposit for those RECs (for both cash deposits and Letter of Credit), as will any system that does not achieve the required project development milestones. For speculative bids, upon demonstration of an identified project, the bid deposit will be reduced from \$16/REC to \$8/REC, with the decreased deposit amount returned to the bidder for cash deposits. If a bidder has successfully converted systems to energized projects and has a balance of fewer than 30 RECs remaining not associated with identified projects, the bidder may request a refund of any remaining deposit. Otherwise, the IPA indicates that the bidder will forfeit any remaining deposit that is not associated with energized projects less the amount associated with 30 RECs.

Under the IPA's proposal, the counterparty under the contract will either be the owner of the system or an intermediary that will contract with the owner of the system. In either case, the party named during the procurement process will be the party that signs a contract with the IPA. Rights under the contract may be transferred or assigned with consent from the IPA. Such consent will be automatic if the ownership of the system changes, if the assignment is to an affiliate of the counterparty, or is for financing purposes. The counterparty will be required to effect such assignment or transfer in the event of bankruptcy or dissolution.

As part of its PV Plan, the law calls for the IPA to "establish contractually enforceable mechanisms for ensuring that the installation of new photovoltaics is performed by a qualified person." To comply with this language, the IPA proposes the following:

- During the pre-qualification stage of the bidding process, all bidders will have to certify that they understand and will comply with these provisions. The IPA will provide standard certification forms for bidders for consent to compliance. After a bid is won, that bidder will be required to certify that a qualified person was used for the system installation by no later than the initial REC delivery date.
- Should the IPA learn that a system was not installed by a “qualified person,” or should a winning bidder be found to not be in compliance with necessary disclosures and certifications, the IPA will have the right to void the contract and cease payments for RECs generated by the system. Additionally, all contracts executed with winning bidders will include a provision that allows the IPA to ask for proof and inspect books and records to confirm the use of “qualified persons.”

The IPA says all systems will be required to have a utility-grade meter as part of their installation and all RECs will be tracked and transferred using either GATS or M-RETS. Each system must be tracked through a single metering point. The bidder will be responsible for any fees related to registration with the tracking system. The IPA will pay for the retirement of RECs and the bidder will not be responsible for those costs.

The IPA indicates it is currently working with PJM Environmental Information Services and M-RETS to clarify and simplify the registration process for Illinois-eligible DG systems. Guidelines on how to register DG systems will be published by the IPA prior to the first procurement event.

With regard to the use of aggregators, Section 1-56(i)(1) of the IPA Act provides:

In order to minimize the administrative burden on contracting entities, the Agency shall solicit the use of third parties to aggregate distributed renewable energy. These third parties shall enter into and administer contracts with individual distributed renewable energy generation device owners.

The IPA understands this language to mean the following:

- Bidders need not be system owners. Instead, this language allows for “aggregators” to serve as an intermediary between an individual DG device owner and the IPA, participating as a bidder in the IPA’s procurement and serving as a counterparty to a REC contract with the IPA.
- As the IPA “shall solicit the use of” aggregators, the IPA has some statutory obligation not merely to permit third-party participation, but to actively solicit it. Active outreach to identify and generate interest from potential bidders has regularly been part of IPA procurement events conducted pursuant to the IPA’s annual procurement energy plans. The IPA believes that active solicitation by the Agency may be accomplished by continuing those practices, as nothing in the statute provides that a distinct form or manner of solicitation must apply.

- While administrative burdens necessitate soliciting bids at or above a threshold bid size (the IPA's proposed minimum procurement bid size of 500 RECs), system owners may otherwise participate directly in the IPA's procurement process. The IPA believes that forcing the use of intermediaries onto willing system owners with sufficiently sized bids would be unnecessarily cumbersome, and would exacerbate the very administrative burdens that the use of "aggregators" seeks to minimize.
- Nothing in the statutory language prohibits an entity from serving both as a system owner and a third-party aggregator. So long as the bidder has or will develop valid title to RECs for transfer to the IPA (i.e., "contracts with individual distribution generation device owners"), a bidder may be a system owner, a third-party, or both. An aggregator may also be a third-party bidding the REC stream from a single DG system.
- The law creates no restriction on which entities may participate as an aggregator. The law does not require that aggregators be system installers or third parties providing financing or providing other services to DG device owners. Nor does the law limit aggregation to for-profit companies, not-for-profits, government entities, or private citizens. The law does require, however, that as counterparties, aggregators must meet credit requirements developed by the IPA. Additionally, as the law requires aggregators to "enter into and administer contracts with individual distributed generation device owners," compliance with this provision necessitates evidence that an aggregator does have contractual rights to RECs being transferred.

The IPA proposes to define an aggregator as a third-party (i.e., non-system owner) that (i) owns or plans to acquire either unconditioned title to or rights to legally transfer RECs from distributed renewable energy devices through contracts with multiple system owners, and (ii) is willing to contract with the IPA and accepts standard Illinois terms as well as procedures for contract administration. The IPA is not proposing the use of a single aggregator for this procurement; rather it proposes that an aggregator who meets this definition will be required to register and pre-qualify with the IPA and its Procurement Administrator in order to be eligible to participate in the procurement events. The IPA expects that multiple entities will be successful participants in these procurement events and awarded contracts to deliver RECs (subject to terms and conditions proposed by the IPA). The Procurement Administrator will maintain a website where, among other things, a list of pre-qualified aggregators will be available to interested parties (i.e., homeowners who wish to use a pre-qualified aggregator). The IPA, however, does not and will not endorse any specific aggregator.

Under the IPA's proposal, aggregators must pre-qualify with the IPA by meeting several provisions. At a minimum, in addition to the requirements stated above, an aggregator must demonstrate to the IPA that the aggregator is:

- Registered to do business in the State of Illinois;
- Able to ensure meter data is collected from aggregated systems ; and
- Is or will be registered with GATS and/or M-RETs upon contract award.

D. Procurement Process

The IPA proposes to hold three procurement events as part of the PV plan, with a fourth contingency procurement event. The budget for each event will increase so as to track anticipated growing demand by developers to supply RECs into the procurements and to accommodate market growth without bottlenecking the availability of REC contracts. The IPA's approximate timeline and budget is as follows:

1. June 2015 (\$5 million; 5,000 REC maximum bid size for bids in the under 25 kW category, and 500 kW maximum system size for the 25 kW and above category).
2. November 2015 (\$10 million; no maximum bid size for bids in the under 25 kW category, and 2 MW maximum system size for the 25 kW and above category).
3. March 2016 (\$15 million; no maximum bid size for bids in the under 25 kW category, and 2 MW maximum system size for the 25 kW and above category).
4. Early 2017 (Contingency Event; balance of available funds, possible limitation on categories of systems that may participate).

The IPA indicates the dates are subject to change pending development of required contract documents, which could impact the date of the first procurement event and the time between each subsequent procurement event. Procurement dates will be finalized by the IPA in consultation with the Procurement Administrator, Staff, and the Procurement Monitor, and will be publicly announced at least eight weeks in advance of the procurement event. The IPA emphasizes that winning bidders must demonstrate progress towards project development or will forfeit deposits and the contractual rights to sell RECs to the IPA.

To increase the number of systems installed as a consequence of the IPA's first (and lowest-budget) procurement, and in an attempt to maximize compliance with the statutory goal for half of RECs procured to come from facilities <25 kW in size, the maximum size of systems bid will be 500 kW for the IPA's first procurement event. In addition, for the first procurement event in the under 25 kW size category, no bidder shall be awarded a contract for more 5,000 RECs.

A determination of whether to hold the contingency procurement event will be made by the IPA in consultation with Staff, the Procurement Administrator, and the Procurement Monitor. If consensus can not be reached, the IPA states that it may petition the Commission for a determination regarding whether to hold the contingency procurement event. In the event that there is a contingency procurement event, the IPA and the Procurement Administrator will review the results of the prior procurements to determine if there should be a narrowing of size categories from which systems are to be procured. Should sufficient funds be available, new utility scale systems may also be considered. The IPA indicates that criteria to be considered may include (but may

not be limited to) the administrative cost of the procurement, the expected REC price, and the likelihood of a particular segment to result in successful completed projects.

The IPA states that the Procurement Administrator will develop the process for the solicitation, pre-qualification, and registration of bidders. The pre-qualification and registration process is expected to be performed online. The pre-qualification process will ensure that bidders with identified systems provide documentation on the systems and are able to contract with the IPA. The registration process will include the tendering of the deposits. Details of the pre-qualification and registration process will be developed by the Procurement Administrator, in consultation with the IPA, Staff, and the Procurement Monitor.

Under the IPA's proposal, all bidders will be required to agree to sign standard contract forms and credit support instruments upon the awarding of successful bids. These include terms required by the State of Illinois as well as standard contract forms developed by the Procurement Administrator and may include credit support instruments. All bidders electing to provide a Letter of Credit in lieu of a cash deposit must use a standard Letter of Credit. The standard contract forms, Letter of Credit, and other credit support instruments will be developed upon Commission approval of the PV Plan in line with the process outlined in Section 1-56(i)(4)(D) of the IPA Act, which provides that "if the procurement administrator cannot reach agreement with the parties as to the contract terms and conditions, the procurement administrator must notify the Commission of any disputed terms and the Commission shall resolve the dispute."

The IPA states that as parties to contracts will not be established until after the development of contract terms and conditions and subsequent procurement events, the IPA understands the "parties" in this context to refer to the IPA, Staff, and the Procurement Monitor. The IPA believes this reading is consistent with the resolution of disputes for contract terms and disputes in other IPA procurement processes. The IPA and the Procurement Administrator will hold at least one public meeting on the proposed contract forms and will provide for an opportunity for stakeholders to provide two rounds of written comments on draft contract forms. Written comments will be posted to the procurement website and the IPA may hold public meetings to explain how it has responded to such comments.

For each procurement event cycle, the Procurement Administrator will announce the date when bids are to be received (closing date) and hold a webinar and bidder training events prior to that date. The closing date will be announced at least eight weeks prior to the start of the procurement event cycle (which is typically several weeks long). No later than the bid date, bidders will provide via a secure website a sealed, binding, bid during a pre-specified bidding window.

The IPA indicates that proper bids received by the closing date and time of the procurement event will be evaluated by the Procurement Administrator as follows: First, for a bid to be considered, it must be at or below the appropriate benchmark. Second, bids are ranked in order of price per REC until all bids have been ranked or until the

budget is exhausted. If that step ended because the budget was exhausted, in a third step, the lowest priced <25 kW systems that have not yet been ranked replace the highest priced >25 kW systems as needed to reach the objective of having 50% of the RECs for the procurement event from systems <25 kW systems (or vice versa, should the imbalance work in the opposite direction). The IPA indicates this evaluation identifies the winning bids for review by the Commission.

For each procurement event, the IPA states that the Procurement Administrator will develop a confidential set of benchmarks. Consistent with Section 1-56(i)(4)(F) of the IPA Act, benchmarks will be developed through consultation among the IPA, Staff, and the Procurement Monitor. Developed benchmarks will not require Commission pre-approval. As provided for in Section 1-56(i)(4)(E), no bid that exceeds the benchmark price shall be accepted by the IPA. The developed benchmark price is confidential and unavailable to bidders at the time bids are submitted or anytime thereafter. To provide some limited guidance to potential bidders, the IPA indicates that factors that may be considered include, but are not limited to, the following: observed market prices for similar products adjusted for expected local costs to develop and operate systems, available incentives, market returns on capital, and term of contract (five years).

The IPA states that it proposes several mechanisms for contingencies. First, winning bidders will need to show progress towards project development as described in Section 4.2. Failure to do so will result in loss of the prorated deposit and right to deliver the associated RECs from any project that does not show such progress, and the contract value of those RECs will be added to the available funding for subsequent procurement events or for the purchase of additional RECs from systems already under contract. Second, should a bidder default after REC delivery starts, the bidder may, with the IPA's consent, assign the contract(s) to another individual or entity who shall assume the obligations and liabilities of the original bidder. That individual or entity will be required to accept all terms and conditions of the original contract, make all required certifications, and post appropriate credit assurances. Third, the IPA is proposing a fourth, final procurement event (contingency procurement) should there be funds available after the third procurement event due to factors including, but not limited to, participation levels, Commission rejection of previous results, and failure of bidders to successfully complete systems. For the fourth procurement event, the IPA relates that it may propose alternative standards, such as product categories tied to more specific segments and possibly also procurement of RECs produced by new utility scale systems. Alternatively, the IPA may put unused funds towards the purchase of additional RECs from systems already under contract from the prior procurement events held pursuant to the PV Plan.

As described in Section 1-56(i)(5) of the IPA Act, the Procurement Administrator and Procurement Monitor will provide separate confidential reports to the Commission within two business days of each procurement event. The IPA states that the Commission will vote on whether to approve the procurement results within two days of receiving those reports.

The IPA indicates that winning bidders will receive a preliminary notification that their bid has been recommended for approval within one business day after the procurement event. Formal notification will be made and contract packages for execution will be transmitted to winning bidders upon the Commission approval of the results. Bidders will have three days to execute contracts. Post-bid negotiations are not allowed.

As provided for in Section 1-56(i)(7) of the IPA Act, the IPA indicates it will publish the names of successful bidders after each procurement event, and will also publish the weighted average winning bid price for each product segment (<25 kW and 25 to 2000 kW). To the extent possible, the IPA will also publish the average size of systems used to support the winning bids in each category. While bids will be kept confidential, the IPA notes that contracts entered into by the IPA may be subject to the Freedom of Information Act, 5 ILCS 140/1 et seq. Consistent with 1-56(i)(7) of the IPA Act, the Commission, Procurement Monitor, Procurement Administrator, the IPA, and all participants shall maintain the confidentiality of all other supplier and bidding information.

IV. ISSUES

A. Acceptable Metering (Sections 2.2.2, 3.1, and 4.5)

1. AIC Position

AIC notes that in various places in the October 28, 2014 PV Plan, the IPA refers to "utility grade" metering. (See Sections 2.2.2, 3.1, and 4.5 of PV Plan) AIC suggests that it would be more accurate or appropriate if the IPA referred to the data as being measured by "revenue quality metering" since it believes that this definition is consistent with Illinois practice. In addition, AIC asserts that M-RETS allows RECs to be calculated from readings taken from the inverter so long as it meets American National Standards Institute ("ANSI") standards or state standards (M-RETS Operating Procedures 7.1 and 7.2). AIC adds that Illinois requires that meters installed after January 1, 2001 shall, at a minimum, meet the standards set forth in Section 4.7 of the ANSI Code for Electricity Metering. (See Section 410.120 of 83 Ill. Adm. Code 410 "Standards of Service for Electric Utilities and Alternative Retail Electric Suppliers") AIC contends that applicable customers should not be misled into believing that utility meters are required to be installed on their generator (which is expensive and unnecessary), or take readings only from the out channel on the utility's meter at their residence or business (which, if they have inverter metering that meets the M-RETS and GATS standards, will under report their REC output.)

AIC wishes to clarify that it is not advocating the installation of any extraordinary metering for PV generators intending to participate in the IPA's SREC procurement. Rather, AIC believes that the language in the IPA's PV Plan creates confusion about the metering necessary for PV generators to register RECs with the appropriate certification organizations. To demonstrate its concern, AIC states that Section 6.3.6 of the GATS

Operating Rules, May 2014 edition, and Section 7.2 of the M-RETS Operating Rules, August 11, 2014 edition, require the following as it relates to revenue-quality metering:

6.3.6. Customer-Sited Distributed Generation

The following operating rules specify metering requirements that apply only to renewable Energy generators meeting the definition of Customer-Sited Distributed Generation. These rules are in addition to those specified above in Section 6.3.3.

- a. Measurement of dynamic data: Renewable Energy generation production data used in the development of Certificates from generators shall be obtained subject to the following requirements. For each renewable Energy source, the original data source for reporting total Energy production must be from revenue-quality metering at the AC output of an inverter or generator, adjusted according to Section 6.3.3.j. In the absence of a meter measuring production as described in this Section (i.e. if there is no meter at the inverter) the original data source for reporting total Energy production must be from revenue-quality metering placed to measure only the hourly positive generation flowing to the distribution system, adjusted according to Section 6.3.3.j. Unit-specific metered generation must be read on a month-end basis and communicated to the GATS Administrator by a single entity.

7.2 Revenue Metering Standards

All generators participating in M-RETS must use a revenue quality meter. For generators that are interconnected to a utility or control area operator, a revenue-quality meter is any meter used by the reporting control area operator for settlements. The data must be electronically collected by a meter data acquisition system, such as a MV-90, or pulse accumulator readings collected by the control area's Energy Management System, and verified through a control area checkout/energy accounting or settlement process which occurs monthly. The preferred source for the data is a meter data acquisition system. If the control area does not have an electronic source for collecting revenue meter data, then manual meter reads will be accepted. Manual meter reads must be performed by a Qualified Reporting Entity.

For customer-sited generators or generators that do not go through a control area settlements process, a revenue-quality meter is one that meets the applicable ANSI C-12 standard or applicable state standards.

AIC relates that these organizations have their own metering requirements and they are required to be adhered to in order to register RECs. AIC's point in raising this issue is

that the IPA should avoid addressing any metering issues in the PV Plan and in any documents developed to implement the PV Plan.

2. ISEA Position

ISEA requests that the IPA clarify its use of the term “utility grade metering” in the October 28, 2014 PV Plan to ensure all parties have a consistent understanding of what is required and who is required to provide the device. That being said, ISEA objects to AIC's statement that “revenue quality metering” is consistent with Illinois practice. ISEA avers that it is not and never has been a standard practice in Illinois to install a “revenue quality” meter for residential projects. Typically, revenue-grade meters are power production meters that measure to +/- 2% accuracy per the ANSI rule C12.1-2008. ISEA relates that revenue-grade meters are expensive, ranging \$300 - \$1,000 for the meter alone, dramatically weakening the economics of residential installations. In particular, ISEA observes, for systems <25 kW this could add 1 to 4 years to the payback period. Thus, ISEA suggests that systems greater than 25 kW be required to install a “revenue quality” meter and systems less than 25 kW be allowed to use the PV system's “inverter power production meters.”

3. SunEdison Position

In its joint reply with ISEA, SunEdison agrees with ISEA's position that “revenue quality meters” should be used for commercial scale systems (those exceeding 25 kW capacity), since those meters will be required for verification of final REC production and therefore payment. SunEdison also shares ISEA's opinion that for systems <25 kW, a “revenue quality meter” is cost prohibitive and not a standard installation procedure in the United States. For smaller PV systems, SunEdison and ISEA agree in their joint reply that such a cost is excessive for the volume of RECs that can be claimed and is not necessary. In order to advance the goals of the IPA Act, SunEdison contends that the PV Plan should endorse the lowest cost solution to generate the necessary information. Therefore, SunEdison and ISEA recommend in their joint reply using standard inverter readings, PVWatts forecasts, or simple calculations using the standard capacity factor as defined by the PV Plan for systems less than 25 kW.

4. IPA Position

With respect to meters, the IPA notes that Section 1-56(i) provides only that “[a]n individual distributed renewable energy generation device owner shall have the ability to measure the output of his or her distributed renewable energy generation device.” (20 ILCS 3855/1-56(i)). The IPA does not seek to heighten this standard and potentially create new barriers to participation, especially against the backdrop of a law seemingly designed to encourage participation from smaller systems (by requiring that 50% of RECs be procured from systems below 25 kW in size). As currently understood by the IPA, the term “revenue quality” would not be onerously restrictive and yet may not have the same meaning as “utility grade” as referenced by ISEA. If “utility grade” and

"revenue quality" metering have the same meaning, the IPA has no objection to the latter's usage.

5. Commission Conclusion

At the outset, the Commission notes that no party objects to the use of "revenue quality" metering for PV systems 25 kW and greater. Although costly, such metering is apparently not uncommon in larger PV systems and does not represent a large proportion of the overall system costs. The Commission therefore finds the addition of any reference(s) in the PV Plan to "revenue quality" metering for PV systems larger than 25 kW reasonable.

With regard to PV systems <25 kW in size, only AIC is troubled by the reference to "utility grade" metering in the October 28, 2014 PV Plan. The Commission understands AIC to be recommending that the PV Plan not address appropriate metering in order to avoid adopting any standards or requirements that may be inconsistent with GATS or M-RETS provisions. Unfortunately, exactly where GATS and M-RETS fall on the question of appropriate metering for small PV systems is not clear in the record. While AIC cites portions of GATS and M-RETS operating rules purporting to require revenue quality metering for all systems producing RECs, ISEA and SunEdison argue that requiring such metering on smaller systems is not customary and not worth the expense in light of the number of RECs produced. Notably, ComEd has not expressed any concerns about the measurement/calculation of RECs from <25 kW PV systems. Given the state of the record and the entirely plausible argument that standard inverter readings, PVWatts forecasts, or simple calculations using the standard capacity factor in the PV Plan can be used to determine REC output on small systems, the Commission finds references to "utility grade" metering in the PV Plan reasonable. In addition, the Commission concurs with the IPA's intention to avoid heightening any metering standard and potentially create new barriers to participation, especially, as the IPA notes, against the backdrop of a law seemingly designed to encourage participation from smaller systems.

B. Installer Certification (Section 2.3.3)

1. AIC Position

The October 28, 2014 PV Plan references a list of Qualified Installers on the Commission's website. AIC points out that this listing reflects installers who meet the standards of Part 468, which, as the PV Plan notes, has a different and arguably broader qualification standard than those required of installers for PV units intending to supply RECs in this procurement. AIC considers this reference to the listing of Part 468 installers potentially confusing and therefore recommends deleting the reference. In the alternative, AIC suggests that the IPA provide more detail regarding its plan for installers associated with this procurement and express a willingness to make public its criteria and ultimately a list of installers that meet said criteria.

2. ISEA Position

ISEA acknowledges that the definition of “qualified person” set forth in detail in Section 1-56(i) differs from the definition contained in Part 468. A list of DG installers certified under Part 468 can be found on the Commission’s website. ISEA observes that the website list does not currently reflect whether installers comply with the requirements of Section 1-56(i). ISEA requests that the Commission revise its website to reflect whether listed installers meet the narrower requirements of the IPA Act. ISEA believes that a revised website will provide a simple resource for system owners, prospective aggregators, and procurement administrators to ensure compliance with this requirement.

3. Staff Position

Arguing that it places an undue and unnecessary burden on the Commission, Staff objects to ISEA's request that the Commission revise the list of installers on the Commission's website to indicate their compliance with Section 1-56(i). Staff states that everything that the Commission knows about DG installers certified under Part 468 is already on the Commission’s website. Staff point out that the Commission does not necessarily possess the additional details cited by ISEA. To acquire those additional details would require the Commission to amend its rules to obtain the information from installers, to compile the information, and to post it to the website. Staff contends that this proposal does not afford the Commission adequate time to complete these tasks prior to the proposed SREC procurement schedule. Nor, Staff continues, does it address how the Commission would fund implementation of the proposal, which is not the product of a legislative mandate on the Commission. For these reasons, Staff recommends that the Commission reject this ISEA proposal.

4. IPA Position

The IPA is uncertain whether the Commission can be directed in this docket to create and maintain the list sought by ISEA. While it believes that the idea may have merit, without understanding the administrative costs of such an effort or the general availability of the information, the IPA can not support ISEA's proposal. The IPA adds that PV system installation firms are not “qualified persons” for purposes of satisfying Section 1-56(i)’s requirements. The statutory requirements, the IPA explains, apply to the individual installers who perform “the major activities and actions” required to connect a given system. Stated differently, an installation firm may have “qualified persons” on staff, but absent soliciting additional assurance related to that specific system installation from the firm itself, there is no guarantee that having a listed firm perform a PV system installation would result in this provision being satisfied. Without actively registering and verifying qualified installers at the employee level, the IPA concedes that this effort may have little benefit and could introduce reliance on inaccurate information, potentially jeopardizing compliance and risking contract breach.

5. Commission Conclusion

The Commission appreciates ISEA's interest in providing clarity to the public, but unfortunately lacks the information and time to implement ISEA's suggestion. The parties correctly observe that Section 1-56(i) of the IPA Act more narrowly defines who is allowed to install a PV system than does Part 468. Therefore the list of DG installers certified under Part 468 and listed on the Commission's website may contain installers who are not allowed to install PV systems whose owners plan to participate in the subject SREC procurement. While an accurate list for purposes of Section 1-56(i) is desirable, the information provided in any given docket under Part 468 may not enable the Commission to provide such a list. A rulemaking would be necessary to require such information. In light of the time necessary to develop appropriate rule language and satisfy the requirements of the Administrative Procedure Act ("APA"), 5 ILCS 100/1-1 et seq., a final rule may not be adopted in time to provide much benefit. In order to avoid confusion, the Commission finds AIC's primary suggestion the most appropriate and directs the IPA to delete the last sentence in Section 2.3.3 of the PV Plan containing the link to the list of DG installers on the Commission's website. The remaining language in Section 2.3.3 of the PV Plan is sufficiently clear regarding the differences between "qualified persons" under Section 1-56(i) of the IPA Act and Part 468.

C. Resource Selection - New vs. Existing PV Systems (Section 3.1)

With regard to resource selection, the IPA states that the General Assembly leaves two key decisions to its discretion in developing its PV Plan. The first of these decisions is the determination of the balance of resources between new and existing PV resources. The IPA resolves this issue by proposing to procure RECs from only new PV facilities rather than from both new and existing facilities.

1. AIC Position

AIC expresses some concern about such an outcome. AIC asserts that the long standing requests for proposals ("RFPs") and Commission orders pertaining to eligible retail customers are instructive to this PV Plan. In prior RFPs for eligible retail customers covering all REC types (wind, solar, other), AIC understands that the Procurement Administrator would select the lowest cost RECs available until the total REC target was met or the RRB was exhausted. If the procurement target is met before the RRB is exhausted, any remaining budget may then be used to then introduce a preference to help meet sub-target goals, swapping out, say, lower-priced biogas RECs for higher priced SRECs to meet Section 1-75(c)(1)'s 6% PV "carve-out." This process would continue (giving equal weight to all mandated preferences) until the mandated preferences were met or the RRB was exhausted. In this way, AIC states that the Procurement Administrator ensured that the target was met and the cost to the consumer was kept as low as possible while still meeting legislative preferences.

In this PV Plan, by holding separate procurement events for different types of facilities as now being considered, AIC fears that there is no way for the IPA to meet its requirement to obtain the lowest cost RECs. By excluding certain qualified bidders from participating (existing facilities), AIC contends that the IPA can not obtain the lowest cost RECs. AIC states that the opportunity to disregard one form of REC because it is not the lowest cost as compared to a different form of REC will be lost and existing facilities will potentially be harmed. Although the IPA references that it is allowing existing facilities in a current plan associated with AIC's eligible retail customers (Docket No. 14-0588), AIC asserts that the IPA fails to acknowledge that AIC and other parties oppose this proposal since the total REC target for the next planning year has already been exceeded with existing contracts. If the Commission agrees with AIC and other parties who oppose the REC procurement for eligible retail customers in Docket No. 14-0588, AIC states that the claim put forth by the IPA that it is attempting to balance new verses existing RECs in this PV Plan becomes moot.

AIC understands the IPA to believe that buying RECs from new facilities is better for the market than purchasing from existing facilities in the same market. AIC argues that the IPA has put forth no analysis, study, or evidence to substantiate such a position and urges the Commission to reject it. Rather, AIC recommends that the Commission holds to the status quo and modify the PV Plan to allow all eligible parties to participate in each supplemental PV RFP that is held in order to ensure the lowest cost possible is achieved and that no undue bias is incurred by existing facilities.

2. ComEd Position

ComEd criticizes the IPA for recommending that the entire \$30 million available for the procurement should be used to procure RECs only from new PV systems. ComEd does not believe that this proposal is supported by the broad language of Section 1-56(i). In addition to limiting participation to only new systems when both new and existing could be included, ComEd claims that the proposal also runs afoul of the statutory mandate to procure RECs "at the lowest total cost over time." ComEd contends that the support for this proposal in the October 28, 2014 PV Plan is limited to the statement that it is the IPA's belief "that by focusing on the development of 'new' photovoltaic systems, it is best positioned to meet the statutory goal of producing the 'lowest total cost over time.'" (PV Plan at 12)

From a policy standpoint, ComEd also argues that the IPA's proposal will have a chilling effect on competition. By picking the winners (new systems) and losers (existing system) upfront before holding the procurement, ComEd claims that the PV Plan would exclude market participants that may bring lower bids, and thereby reduce competition while likely increasing prices. ComEd maintains that this, in turn, makes compliance with the "lowest total cost over time standard" impossible. Furthermore, because this policy signals that only new systems will be considered in the procurement, ComEd asserts that even today's "winners" will fear an uncertain future where, by virtue of their five-year contracts expiring, they too ultimately turn into "existing suppliers" that could be excluded from future procurements.

ComEd contends that past Commission practice regarding the procurement of RECs also shows the imprudence of procurement only from new PV systems. To date, all eligible bidders – whether new or existing systems – have been welcome to participate in procurements under Section 1-75 of the IPA Act, and the Procurement Administrator has selected the lowest cost RECs available until the overall REC target has been met or the budgeted funds have been exhausted. ComEd notes that the Commission has expressly emphasized that cost-effective resources should be procured:

Having reviewed the statute and the arguments, the Commission agrees with Staff that the highest priority under the [IPA Act] is to meet the renewable energy resource standards with resources that are cost-effective. Absent a clear indication in the statute that an option which is not cost-effective is to be favored over resources which are cost-effective, the Commission believes it should err on the side of the cost-effective resources. (Docket No. 07-0528, December 19, 2007 Order at 61)

Accordingly, ComEd urges the Commission to revise the PV Plan to permit procurement from both existing systems and new systems to ensure the IPA procures the lowest cost RECs.

With regard to the parties' arguments supporting the IPA's preference for new facilities, ComEd considers it notable that some of these parties admit that allowing existing systems to compete with new systems would likely produce lower prices for RECs. Yet, ComEd continues, these parties nevertheless contend that a procurement only from new systems somehow complies with the requirements of Section 1-56(i) of the IPA Act to procure RECs “at the lowest total cost over time” and that bids be selected “solely on the basis of price.” (20 ILCS 3855/1-56(i)(1); 20 ILCS 3855/1-56(i)(4)(D)) ComEd contends that their position on this issue can not be sustained.

First, ComEd questions the claim that spurring the development of new PV systems will increase the supply of RECs in the future, which will in turn result in lower REC prices in the future. ComEd contends that such assertions are nothing more than opinion. ComEd accuses those supporting this aspect of the PV Plan of failing to acknowledge what impact this proposal will have on the viability of existing systems, which are unable to participate in the market. Because new entrants quickly become existing systems, ComEd opines that policies that exclude existing systems from participation may very well discourage new entry in the first place.

Second, ComEd challenges the IPA's contention that RECs from new systems “carry unique characteristics sufficient to produce decreased costs over time and while delivering increased benefits” (IPA Response at 8) as being unsupported and speculative. ComEd contends that the IPA offers no evidence that RECs from new systems either “carry unique characteristics” or that these characteristics are “sufficient to produce decreased costs over time.”

Third, ComEd fails to see any merit in SunEdison's reference to Delaware's experience with SRECs. According to SunEdison and certain reports it cites, ComEd understands that some have viewed the prices bid by existing PV systems in a Delaware procurement as "artificially" low. While SunEdison cites to no subsequent "price spikes" in Delaware, ComEd states that SunEdison nevertheless claims that such "price instability" is inevitable there and, apparently, here in Illinois. ComEd contends that SunEdison offers no evidence or support for this alleged price volatility; nor does it provide any explanation regarding why a competitive process that includes existing systems and produces lower prices will not continue to produce lower and stable prices in future procurements that employ the same competitive process.

ComEd also asserts that the IPA's reason against additional size-based subcategories is equally applicable to the issue of whether this procurement should be limited to new systems. ComEd maintains that the IPA's argument supports permitting all systems, new and existing, to compete in this procurement. ComEd cites language from page 12 of the IPA's response to the objections.

3. ISEA Position

ISEA supports the IPA's view that it has the authority and discretion to define "new" and "existing" systems since the IPA Act lacks definitions for such. ISEA also favors the IPA's proposal to use the entire \$30 million from the RER Fund to procure RECs only from new systems. ISEA points out that the IPA has not ignored existing systems. By addressing existing systems in the regular annual procurement docket and new systems in the supplemental procurement at hand, ISEA believes that the IPA has taken an overall balanced approach. ISEA avers that the IPA's strategic approach will produce the best outcome possible - the advancement and growth of the solar industry to ensure the 2025 RPS goals are met as designed by the General Assembly. Accordingly, ISEA concludes that the IPA's proposal meets the statutory requirements of Section 1-56(i) to "assist in developing new generation [that] carries more significant value than a contract to purchase the renewable energy credits off a system already built and financed." Moreover, ISEA argues that the limited existing PV systems are not "losers" as AIC and ComEd suggest. These system owners, ISEA points out, now have the opportunity to sell their RECs in the IPA's 2015 Plan, which may not have been an option when they were making the decision to install their solar systems. Nor does ISEA agree with the claim that the IPA's proposal "runs afoul" of the mandate to procure RECs "at the lowest total cost over time." ISEA concurs with the IPA that the development of new systems may contribute significantly to ensuring the "lowest cost over time" by developing generating resources whose output may assist with future years' RPS compliance. ISEA asserts that the goal envisioned by the General Assembly when it enacted Public Act 98-672 was to spur new solar DG development and jump-start the local solar industry in Illinois. The Illinois distributed solar market is nascent but as the market grows and costs decline through increased sales volumes and competition, ISEA expects that REC prices will also decline.

As for AIC's claim that the IPA has failed to justify purchasing RECs from only new facilities, ISEA observes that buying RECs from new facilities is significantly better for the market as new installations create jobs and additional economic benefits to the state. Existing solar installations no longer provide these benefits. ISEA states further that this model has proven successful throughout the U.S. solar industry. ISEA points out that states with programs clearly designed to stimulate new installations grew faster and enjoyed more economic benefits than those without such programs. ISEA relates that the Illinois State University Center for Renewable Energy authored the study Economic Impact Potential of Solar Photovoltaics in Illinois, which concluded that 2 GW of future solar installations would provide around 26,000 construction phase jobs and 1,200 operation and maintenance jobs. Additionally, a study conducted by the IPA in 2011 discovered that the inclusion of renewable energy, primarily wind at that time, saved Illinois ratepayers over \$171 million annually (2012 Annual Report: The Costs and Benefits of Renewable Resource Procurement in Illinois Under the Illinois Power Agency and Illinois Public Utilities Act). As solar pricing continues to drop and development across the state increases, ISEA expects this same benefit by having a mixed energy supply.

4. SunEdison Position

SunEdison supports the IPA's decision to procure RECs from only new PV systems, which it believes is entirely consistent with statutory language of the IPA Act. SunEdison emphasizes the use of the word "or" in Sections 1-56(i)(1) and 1-56(i)(3) ("from new or existing photovoltaics"), rather than the word "and." SunEdison explains that there are two possible interpretations of the General Assembly's use of the word "or," neither of which support the utilities' objection. First, the General Assembly may have intended for there to be a binary choice. That is, the General Assembly may have intended for RECs to be procured solely from new systems, or solely from existing systems, but not from both. Alternatively, the General Assembly may have intended for there to be flexibility in determining the source of RECs under the solar procurement. In either case, SunEdison asserts that the General Assembly did not mandate that the RECs be procured from both new *and* existing facilities.

The PV Plan's preference for procuring from new facilities, SunEdison continues, is entirely consistent with the broader purpose of the solar procurement legislation, which SunEdison insists was not intended to simply be a subsidy for existing utility operations, but instead was intended to spur additional solar development as part of Illinois' "developing market" for PV. SunEdison asserts that the legislative history confirms this, with floor debate on the enabling legislation for the PV Plan beginning and concluding with discussion confirming the legislature's desire to encourage new solar projects:

Senator Frerichs: Senator Harmon, I have a few questions here to establish legislative intent. Is it the intent of the bill that the Illinois Power Agency procure solar renewable energy credits primarily from newly installed, distributed generation systems?

Senator Harmon: Yes, it is.

Senator Frerichs: And, finally, is it the intent of this bill to help strengthen and diversify the Illinois power grid through development of new distributed generation resources?

Senator Harmon: Yes, it is. (Ill. Sen. Tr. May 29, 2014 at 122-123)

Accordingly, SunEdison concludes that the Commission should disregard the utilities' objections to the portion of the PV Plan under which the IPA proposes to procure RECs from new systems.

The utilities also assert that the October 28, 2014 PV Plan fails to properly consider the cost of the RECs. But SunEdison maintains that the utilities mischaracterize the statutory direction given regarding cost. AIC that asserts the law requires the IPA to procure the "lowest cost" RECs, while ComEd refers to a rigid "lowest cost over time" requirement. (AIC Objections at 3; ComEd Objections at 3) SunEdison contends that both AIC and ComEd omit a substantive phrase the General Assembly included in Section 1-56(i)(3), which demonstrates that it did not intend to handcuff the IPA and the Commission. The procurement of RECs is to be "at the lowest total cost over time, taking into account any benefits of price stability." (20 ILCS 3855/1-56(i)(3)) In highlighting the need for price stability, SunEdison maintains that the General Assembly clearly indicated its understanding that the solar energy industry requires stability in order to develop a robust solar market. SunEdison believes that the PV Plan reflects the legislature's intent.

If existing PV systems were allowed to participate in the solar procurement, SunEdison argues that price stability would suffer because the initial prices would be artificially depressed. SunEdison contends that Illinois can learn from the recent experience in Delaware. In 2012, Delaware conducted its first auction for SRECs under its new RPS structure. Delaware decided that its first SREC procurement would include two types of "new" solar systems -- both systems that had already been constructed and systems that were planned but had not yet been constructed. A report on Delaware's SREC procurement indicated that the owners of systems that had already been constructed bid artificially low prices, in order to ensure that their bids would be successful. (New Energy Opportunities, Inc., La Capra Associates, Inc., Evaluation of the 2013 Delaware SREC Procurement Program 11 (Aug. 7, 2013) (citing Meister Consultants Group, Evaluation of the Delaware SREC Pilot (Aug. 3, 2012))) SunEdison states that it was noted in the trade press that the uncertainty caused by the artificially low prices, in addition to uncertainty regarding the solicitation process, caused investors to divert their funds, choosing instead to build PV projects elsewhere. (Alex Anich, Karbone, Delaware Renewable Market Overview, <http://www.renewableenergyworld.com/rea/blog/post/print/2013/11/delaware-renewable-market-overview> (Nov. 15, 2013) (last visited Nov. 17, 2014)) SunEdison asserts that such uncertainty is the antithesis of

the conditions necessary for price stability; the procurement process for which the utilities advocate would result in price instability.

That price instability, SunEdison continues, would undermine the further development of the renewable market in Illinois and would harm consumers, who suffer when prices jump suddenly. The inclusion of existing systems in the procurement could, according to SunEdison, lead to artificially low prices until existing projects have contracts in place for all of their RECs. At that point, the market prices bid by new systems could cause a significant increase in overall RPS costs, resulting in price spikes. SunEdison points out that Illinois has direct experience with having to restructure the procurement process in order to avoid jumps in electric charges. SunEdison relates that in 2007, the General Assembly enacted a rate relief legislative package in response to spikes in electric prices caused by a structure that established initial artificially low prices. (See Senate Bill 1592 of the 95th General Assembly; see also <http://www.chicagobusiness.com/article/20070828/NEWS02/200026173/governor-signs-rate-relief-bill>)

5. ELPC Position

While AIC and ComEd may disagree with the IPA's exercise of discretion, ELPC asserts that they have not identified any conflict with the language of Section 1-56(i) of the IPA Act or any other legal basis for rejecting the IPA's proposal to procure SRECs from only new PV systems. Section 1-56(i) authorizes the IPA to procure resources from "new or existing photovoltaics" and directs the IPA to determine the correct balance. The October 28, 2014 PV Plan sets forth a clear policy preference for new resources, concluding that the development of new PV in Illinois is a preferable way to "maximize the value" of the pooled alternative compliance payments in the RER Fund and position the IPA to best meet the statutory goal of producing the "lowest total cost over time." (PV Plan at 12) ELPC observes that SRECs from "existing" projects will be procured using RRB funds as proposed in the parallel Docket No. 14-0588. (See PV Plan at 12, fn 66) ELPC avers that the IPA is in the best position to balance the competing policy preferences, and the General Assembly gave the IPA the discretion to make the decision about the optimal resource selection to best meet the policy goals of the State. ELPC recommends that the Commission not overturn this careful exercise of the IPA's discretion simply because AIC and ComEd prefer a different outcome.

6. CUB Position

CUB supports the IPA's conclusion that all \$30 million from the RER Fund should be used to procure SRECs from new PV systems. In CUB's opinion, any objection suggesting otherwise should be rejected by the Commission. Similarly, CUB urges the Commission to reject objections that a procurement that considers only new solar installations would not produce REC prices at the lowest total cost over time. If the entire \$30 million budget is exhausted, CUB asserts that the proposed new-only procurement would significantly expand the installed PV capacity in Illinois. CUB notes further that the market for SRECs is currently significantly tighter than for RECs from

other generation technologies, notably wind power. The IPA's two most recent REC auctions produced an average price for Illinois and Illinois-adjacent solar suppliers of \$94.29/MWh; the equivalent average price for wind producers in these auctions was \$1.71/MWh, owing to economies of scale and a much larger supply volume. CUB believes that using this average SREC price as a proxy for the proposed procurement would encourage an additional 50 MW of installed capacity, for an average 63.6 GWh of new solar power per year. By encouraging a larger SREC market, CUB contends that this procurement would lower the average price of future SREC auctions, hopefully bringing them closer in line with much less costly wind RECs. While allowing existing solar installations to participate in the supplemental procurement could result in a lower initial REC cost, CUB argues that it would not have the same impact on prices over time. CUB agrees with the IPA that by soliciting only RECs from new, behind-the-meter solar installations it is best positioned to meet the statutory goal of producing the lowest total cost over time. CUB urges the Commission to reject the objections of AIC and ComEd regarding the IPA's plan to procure RECs solely from new solar installations in the PV Plan. CUB supports the IPA's PV Plan as proposed, and urges the Commission to approve it with no revisions.

7. Staff Position

While Staff agrees with the IPA's preference for new facilities, Staff does not agree with one of SunEdison's arguments in support of the IPA's preference for new facilities. Staff understands SunEdison to imply that the language in Section 1-56(i)(3) of the IPA Act referring to "benefits of price stability" is in reference to "price stability" for the solar industry. Staff notes that on page 6 of its response to the objections, SunEdison states, "In highlighting the need for price stability, the General Assembly clearly indicated its understanding that the solar industry requires stability in order to develop a robust solar market." Staff argues that the reference to price stability in the statute is price stability to utility customers -- not the solar industry. Staff maintains that it is not reasonable to read Section 1-56(i)(3) as SunEdison does, and assume that the legislature, when referring to lowest total cost and benefits of price stability, intended that in one instance the context was that of utility customers' lowest total cost and in the other instance the context was that of benefits of price stability to the solar industry. Staff contends that it is more reasonable to read Section 1-56(i)(3) in the context of utility customers' lowest total costs and utility customers' price stability. Staff's reading of Section 1-56(i)(3) still supports the IPA's Plan to procure RECs from new systems.

8. IPA Position

In response to AIC and ComEd's objections to procurement of SRECs from only new PV facilities, the IPA points out that the terms "new" and "existing" in Section 1-56(i)(1) of the IPA Act are not defined in the IPA Act. Nor, the IPA continues, are they present in Section 1-75(c) of the IPA Act (under which prior renewable energy resource procurements have been conducted) or elsewhere in Illinois law pertaining to renewable energy procurement. The IPA argues that the General Assembly's decision to include these new terms thus requires the IPA to first define what constitutes a "new" or

“existing” PV system (something not required for prior procurements), and next, to determine the balance of resources to be procured from these categories. Through its October 28, 2014 PV Plan, the IPA states that it articulates what criteria will be used in determining whether a system is considered “new” and explains why it is focused on procuring RECs from “new” PV systems.

The IPA argues that the utilities' approach calling for procured resources to be pooled such that no distinction between “new” and “existing” systems is drawn is inconsistent with the plain language of the law. If Section 1-56(i) operated to allow for an open procurement of RECs from all systems without distinction, the IPA points out that “new” and “existing” would be unnecessary, superfluous terms. The utilities, the IPA continues, make no effort to define these terms or determine how they must be given weight or meaning; instead, a proposal is made that these terms be ignored in favor of adopting prior practices conducted under laws that drew no such distinctions. The IPA avers that this approach runs directly counter to basic tenets of statutory construction, specifically that the use of terms within a statute must be given meaning. Alternatively, the IPA states that determining the balance of resources to be procured from new and existing systems, as it proposes, gives these terms effect.

With regard to the utilities' position that the Commission should maintain the status quo used in prior renewable energy resource procurements, the IPA asserts that their arguments are misleading and must be rejected. First, the IPA states that there is no “status quo” for procurements under Section 1-56(i). Prior procurements, the IPA points out, have been conducted under Section 1-75(c) of the IPA Act. Section 1-75(c) draws no distinctions between “new” or “existing” PV systems, features statutory REC procurement targets for RPS compliance that must be met within a defined budget, features utilities (rather than the IPA) as counterparties to resulting contracts, and is conducted using the RRB funded through a surcharge paid by eligible retail customers. Alternatively, the IPA relates that procurement under Section 1-56(i) features no REC procurement target amounts (thus deemphasizing the need for a procurement target to be met within a defined budget via a lower REC price point), features the IPA as the counterparty to resulting contracts, and is funded through funds collected by ACPs from ARES. The IPA asserts that procurement under Section 1-56(i) is a distinct process driven by fundamentally different considerations guided by a one-time procurement plan. The IPA contends that past practice under different laws is not binding and only minimally instructive.

Second, the IPA states that the “status quo” is merely one approach to balancing priorities. While it may fit for procurements under Section 1-75(c), for reasons described above and further below the IPA does not believe that it is not appropriate for a procurement driven by Section 1-56(i)'s unique language and competing priorities. Nor is it arguably even the “status quo,” the IPA observes, as it is not the approach proposed by the IPA for its DG procurement in its 2015 Plan. While it may be the preferred approach of two intervenors, the IPA maintains that it is a poor fit for applying Section 1-56(i).

Equally without merit in the opinion of the IPA is ComEd's claim that the October 28, 2014 PV Plan will set a troubling precedent for “existing” system owners fearing that their system’s REC’s may be ineligible for future IPA procurements. The IPA reiterates that Section 1-56(i) is a “one-time” supplemental procurement and only Section 1-56(i) draws a distinction between “new” and “existing” PV systems. The IPA states that REC procurements taking place in ComEd’s alleged “uncertain future” will not proceed under Section 1-56(i); they will be conducted under other provisions of the IPA Act (which feature no such “new” and “existing” distinctions). While experience using this process may help guide future procurements, the IPA indicates that it can not bind them.

The IPA argues that the distinction drawn by the law between “new” and “existing” systems is quite sensible, as a REC from a “new” PV system offers a significantly different value proposition than a REC from an “existing” system. “Existing” PV systems have already been financed and built in reliance on known revenue streams. As these systems generate electricity featuring the absence of certain externalities, they generate SRECs procured through processes such as the IPA’s proposed procurement at issue in Docket No. 14-0588. “New” systems, the IPA states, are less likely to be built absent the presence of a known and certain REC stream providing additional revenue that makes the economics of the system a viable investment. The value offered by a “new” PV system is quite different, both for the system owner and for society at large. “New” PV systems reduce customer demand and/or increase available supply, thus providing downward pressure on energy prices. “New” PV systems reduce the carbon intensity of electricity and reduce socialized costs from reliance on more polluting forms of generation. The IPA acknowledges that such benefits may also be derived from “existing” systems, but those benefits will continue to accrue regardless of whether a REC contract is awarded. Absent a REC contract, however, the IPA suggests that the “new” system may never be built and such benefits may never be captured. The IPA relates that this logic informs REC procurement programs developed in jurisdictions all across the United States, many of which use a system energization date as a threshold for participation.

Perhaps the most important distinction in the IPA's opinion, however, is that "new" systems provide a cadre of otherwise non-existent generation for compliance with future years' REC procurements. The IPA contends that this is vitally important, as Section 1-56 and Section 1-75 each feature a “carve-out” requirement for procurement from PV and from DG (which, by definition, must be sited in Illinois), ensuring that REC's from both system categories will annually be in high demand. The IPA asserts that the development of new PV systems not only ensures that renewable energy procurement targets can be met in future years, it helps ensure that such targets can be met at a lower price through more competitive procurement processes.

Because REC's from “new” PV carry unique characteristics sufficient to produce decreased costs over time while delivering increased benefits, the IPA indicates that devoting any balance of funds (such as 10% or 25%) to “existing” systems would be inconsistent with the law as each “existing” system REC returns insufficient value relative to its “new” system counterpart. Nor, the IPA continues, could it count on bid-in

REC price differentials to reflect a “new” system’s increased value and reduced costs over time. The IPA argues that a procurement process allowing already-financed systems to compete on par with systems relying on a REC contract for financing would allow “existing” systems to easily undercut “new” systems, crowding out “new” systems from a revenue stream necessary for financing. By drawing a heretofore unprecedented distinction between “new” and “existing” generation in the law, the IPA understands that this very outcome is what drafters of Section 1-56(i) sought to avoid.

9. Commission Conclusion

Upon evaluating the arguments, the Commission finds that the IPA Act and record supports the IPA's proposal to procure SRECs only from new PV facilities. That the IPA has thoroughly considered this issue is apparent and is to be commended. As a starting point, because the terms "new" and "existing" appear for the first time in this context in Section 1-56(i) of the IPA Act, it is reasonable for the IPA to take it upon itself to define the terms. The IPA's interpretation of the word "or" is also reasonable and consistent with statutory interpretation practices. The utilities' suggestion that existing PV facilities have been disadvantaged is adequately rebutted by the fact that existing PV facilities may participate in the 2015 Plan. In addition, the "status quo" that the utilities attempt to rely upon is nonexistent. While procurement experience gained under Section 1-75 of the IPA Act can be instructive, sufficient differences exist between the two statutory provisions at hand to discredit any claim that practices under one provision must be applicable to the other.

Also without merit is the argument that procuring SRECs from only new PV facilities violates the statutory requirement that the IPA consider the "lowest total cost over time, taking into account any benefits of price stability." (20 ILCS 3855/1-56(i)(1)) Several parties agree and the Commission recognizes that in a direct price contest between new and existing PV facilities, existing facilities may very well offer lower priced RECs. Basing the supplemental procurement on this possibility alone, however, disregards certain statutory language. As noted above, Illinois has its own RPS, which includes a "carve-out" for PV resources. Not only will more PV generation in Illinois help meet this goal, but more PV generation in Illinois is also likely to result in lower individual SREC prices in the future compared to current SREC prices reflected in the record. Therefore, over time the total cost for RECs is likely to be lower and benefit customers through price stability.

For these reasons and the other reasons offered by the IPA and those supportive of the IPA's position on this issue, the Commission finds the October 28, 2014 PV Plan's procurement of SRECs from only new PV facilities reasonable and consistent with the IPA Act and sound public policy.

D. Resource Selection - PV Facility Size (Section 3.1)

As referenced above, the IPA understands the General Assembly to have left two key resource selection decisions to its discretion in developing its PV Plan. The second

resource selection issue pertains to determining the appropriate balance of SRECs procured between DG and utility-scale generation. The IPA resolves this issue by proposing to hold separate REC procurements for different facility sizes.

1. AIC Position

AIC questions the implementation of separate REC procurements based on facility sizes. AIC again relies on the RFP process for RECs in prior procurements to demonstrate how size-based procurements may impact cost. AIC fears that by holding separate procurement events for different sizes of facilities, there is no way for the IPA to meet its requirement to obtain the lowest cost RECs. AIC reiterates that the opportunity to disregard one form of REC because it is not the lowest cost as compared to a different form of REC will be lost and facilities of different sizes will potentially be harmed.

2. ComEd Position

With regard to the IPA's proposal to procure RECs based on the size of PV facilities (<25 kW and 25 kW to 2 MW), ComEd states that the PV Plan would create at least two separate procurements because it would evaluate each individual market segment (<25 kW and 25 kW to 2 MW) in isolation and shield each segment from competition with the other. ComEd voices similar complaints about proposals by ISEA and SunEdison to create additional subcategories in the 25 kW to 2 MW segment. ComEd contends that doing so runs afoul of the law and past Commission practice. ComEd reiterates that proposals that artificially shrink the pool of eligible bidders are contrary to Section 1-56(i)'s requirement that the supplemental procurement plan "ensure adequate, reliable, affordable, efficient, and environmentally sustainable renewable energy resources (including credits) at the lowest total cost over time...." ComEd adds that bids must be selected solely on the basis of price. In ComEd's opinion, the IPA's proposal to divide eligible bidders into two market segments (<25 kW and 25 kW to 2 MW) and ISEA's and SunEdison's proposals to create additional subcategories within the larger size segment make compliance with the law impossible. Nor, ComEd continues, can the proposals comply with the requirement that the bids be selected solely on the basis of price. ComEd maintains that the statutory requirements can only be satisfied if all RECs are permitted to compete against one another in a single procurement. ComEd argues that doing so ensures that the State and the utilities' customers realize the maximum benefits from clean energy by purchasing the maximum amount of RECs permitted under the spending limit set by Section 1-56(i)(1), while also fulfilling the IPA's overarching goal that the procurements provide "environmentally sustainable" energy for customers at a reasonable cost.

3. ISEA Position

ISEA observes that the IPA Act does not preclude the IPA from creating subcategories and strongly suggests that such be strategically incorporated in the final PV Plan. In ISEA's opinion, Illinois has an opportunity to learn from the many successes,

failures, and shortcomings of other REC programs across the country. ISEA points out that the Solar Energy International Association states in its Solar Market Insight Report 2014 Q2:

The small commercial solar gap. Within the non-residential market, we focus on the small commercial sector, whose share of installations has been shrinking precipitously over the past few years, even as the share of projects larger than 1 MWdc has grown. Difficulties in financing, along with other non-scaling costs, have long kept the small commercial sector in check despite its enormous potential. Still, we see some opportunity on the horizon as companies develop mechanisms to build out and finance small commercial portfolios. (No cite available)

The Solar Energy International Association comments further that:

It is important for the market to improve in the small commercial arena, in no small part because the theoretical market potential for that segment is virtually boundless by today's standards. Fortunately, we foresee a number of developments that should aid in this transition. First, states such as Massachusetts and New York are rolling out incentive programs with specific carve-outs for small commercial, recognizing the need for that segment to be treated independently. (No cite available)

ISEA relates that state programs such as Massachusetts' MassCEC and New York's NYSEERDA NY-Sun program are being redesigned specifically to address this problem and to create rules and guidelines that will encourage the development of this significant market segment. As an example, ISEA explains that Massachusetts' Department of Energy Resources ("DOER") established SREC factors for its SREC II program which determines what percentage of a PV project's output can generate SREC IIs. ISEA reports that under the DOER program, residential projects and small commercial projects qualify for higher SREC factors than larger "managed growth" projects. DOER established these factors to reduce the cost of the program to ratepayers by avoiding the over-subsidization of larger, more cost-effective projects. ISEA does not recommend that the IPA create SREC factors for this procurement, but points out that this is just one of many ways that states have encouraged the small commercial market segment.

ISEA adds that in other states that hold competitive solicitations there are precedents to subcategorize the commercial segment to encourage small commercial projects. In Connecticut, for example, the SREC program is designed so that medium (100-250 kW) and large projects (>250 kW-1 MW) compete only within their segment for program funds. ISEA also notes that the Delaware REC competitive solicitation also has two tiers within its "large" category of 30 kW-2 MW. Smaller systems (between 30 to 200 kW) and larger systems (between 200 kW to 2 MW) do not compete against each other for REC contracts. ISEA asserts that the two programs are successful at ensuring diversity of customer participation at cost-effective prices.

ISEA states further in its joint reply with SunEdison that other jurisdictions, including Delaware, Colorado, and Ontario, also have recognized that 500 kW is an appropriate breakpoint. ISEA directs the Commission's attention to Delaware SREC Pilot's creation of separate procurement categories for 250 kW-500 kW and 500 kW-2 MW systems, available at: <http://dep.sc.delaware.gov/electric/11399%20SREC%20Pilot%20Final%20Rpt.pdf>; Xcel's Energy Solar Rewards Program's 25 kW-500 kW performance-based incentive schedule, available at: http://www.dsireusa.org/incentives/incentive.cfm?Incentive_Code=CO12F; and Ontario Power Authority's creation of a separate feed-in tariff price schedules for rooftop projects at 100 kW-500 kW and non-rooftop projects at 10 kW-500 kW, available at: <http://fit.powerauthority.on.ca/fit-program/fit-program-pricing/fit-price-schedule>.

In response to ComEd's objection to separate PV procurements based on size, ISEA states that the language of Section 1-56(i)(1) clearly supports the separation in procurement of RECs from less than 25 kW systems. ISEA reiterates that the objective of the Public Act 98-672 is to spur the distributed solar market in Illinois, including the development of the residential solar market. The intent of the legislature was not to spend the \$30 million solely on "cost-effective" small utility-scale (2 MW) projects, which is what would occur if there is no delineation between these legislatively distinguished market segments. ISEA relates that this strategy was discussed during the public workshops and significant analysis was provided outlining the successes of other state programs where similar approaches have been taken. By ensuring a diverse market between <25 kW and >25 kW systems and recognizing the different economic needs, ISEA contends that Illinois will be poised to reap all benefits from a strong, growing, and varied industry.

4. SunEdison Position

SunEdison supports the October 28, 2014 PV Plan's procurement of SRECs on the basis of price within each market segment size. Adoption of ComEd's position on this issue could, in SunEdison's opinion, result in zero SRECs procured from systems 25 kW and smaller. SunEdison relates that there are differences in costs associated with larger systems versus smaller systems. SunEdison cites studies from institutions like the National Renewable Energy Laboratory, the Lawrence Berkeley National Laboratory, and the U.S. Department of Energy that have outlined differences in installed costs between residential, commercial, and larger solar systems. (See, e.g., Benchmarking Non-Hardware Balance-of-System (Soft) Costs for U.S. Photovoltaic Systems, Using a Bottom-Up Approach and Installer Survey, Second Edition, National Renewable Energy Laboratory, October 2013, available at: <http://www.nrel.gov/docs/fy14osti/60412.pdf>; Tracking the Sun VII: An Historical Summary of the Installed Price of Photovoltaics in the United States from 1998 to 2013, Lawrence Berkeley National Laboratory and U.S. Department of Energy, September 2014, available at: http://emp.lbl.gov/sites/all/files/lbnl-6808e_0.pdf (both last visited Nov. 20, 2014)) In light of those differences, SunEdison argues that the General Assembly made a distinction between large and small systems for purposes of the PV procurement; it is perfectly rational and

consistent with the statutory requirement for 50% of the RECs to come from <25 kW systems. SunEdison observes that the Delaware Public Service Commission recently endorsed a solar policy that provides different incentives for different types of solar systems:

Given the well established installed cost differences amongst system size classes, as well as other differences that affect project economics, it is reasonable to have a solar policy that provides differentiated incentives to solar projects with different ownership types and/or size classes. This is in keeping with the goals of the 2010 REPSA Amendments to both develop a broad-based solar market and use renewable energy policy as a tool for economic development. Tiered incentive programs are a well established best practice, and most leading U.S. and international solar incentive programs have utilized differentiated incentives to support the growth of diverse solar markets. (Meister Consultants Group, Evaluation of the Delaware SREC Pilot at 21-22, <http://depsec.delaware.gov/electric/11399%20SREC%20Pilot%20Final%20Rpt.pdf>, (August 3, 2012) (last visited Nov. 17, 2014))

To further improve the process in Illinois, SunEdison recommends that the Commission consider adopting at least one further size delineation at 500 kW. SunEdison states that this size delineation is reasonable because it is a common capacity for commercial solar inverters. (See, e.g., David Brearley & Joe Schwartz, Commercial Central Inverter Manufacturers and Product Lines, Solar Pro, (Dec./Jan. 2014), available at: http://solarprofessional.com/articles/products-equipment/inverters/commercial-central-inverter-manufacturers-and-product-lines?v=disable_pagination (last visited Nov. 20, 2014)) SunEdison adds that such a delineation will serve to spur development of mid-sized commercial PV systems; without this size delineation, winning bids will be skewed toward systems at or near 2 MW. SunEdison points out as well that the IPA already has proposed the June 2015 bid event be capped at 500 kW. SunEdison maintains that it is reasonable to maintain that size delineation within the other bid events, and establish a size category for PV systems 500 kW - 2 MW in size.

In their joint reply, ISEA and SunEdison refine their proposals, and jointly recommend that 15% of the total RECs procured be procured from systems 25 kW-500 kW. They insist that nothing in the IPA Act prohibits the IPA from adopting an additional size delineation that would further the goals of the IPA Act. They point out that unambiguous Illinois law dictates that where a statute fails to specifically preclude something or is silent, the agency's authority is not limited. ISEA and SunEdison direct the Commission's attention to Schultz v. Ill. Farmers Ins. Co., 237 Ill. 2d 391, 408 (2010). They note that the IPA itself supports this interpretation, stating that the IPA Act does not preclude it from creating a third size category.

5. ELPC Position

In response to the utilities' complaints that the PV Plan seeks to procure SRECs from DG resources within each individual market segment (<25 kW and 25 kW to 2 MW) instead of pooling all resources together and procuring solely on the basis of price, ELPC points out that the plain language of Section 1-56(i)(1) supports—if not mandates—the procurement of potentially more expensive SRECs from <25 kW systems through an express procurement target for systems below 25 kW in size. ELPC observes that AIC's and ComEd's interpretation that the IPA Act would ignore the specific statutory requirement to procure resources from <25 kW systems unless those SRECs can be procured at a price that is lower than all SRECs from other larger systems. ELPC finds this unreasonable and in conflict with several canons of statutory construction, including the principle that specific statutory language should control over more general provisions. If the General Assembly had intended price to be the only factor relevant to the IPA's selection of resources, ELPC believes it would have said so. Instead, ELPC continues, the General Assembly provided the IPA with several specific statutory directives and goals, including, to the extent available, a specific requirement to procure at least half of the DG resources from “devices of less than 25 kilowatts in nameplate capacity.” (Section 1-56(i)(1)) Due to economies of scale, ELPC considers it unlikely that RECs from the <25 kW category of DG projects will ever be available at the same price as DG RECs from larger systems. Thus, ELPC concludes that the argument to elevate price over all other statutory factors would likely ensure that the IPA could never reach the market diversity goals that the General Assembly included in the statute.

ELPC states further that the Commission has previously rejected a similar argument raised by ComEd. ELPC relates that the 2012 procurement was the last year in which there was a renewable procurement, and the Commission approved a plan that allowed the IPA to “sort bids according to price and source” and “select the lowest bid combination that yields at least the minimum carve out requirements...” (IPA 2012 Plan at 53) ELPC contends that the same principle applies to the procurement of DG resources as other resources and the Commission should continue to allow the IPA to create separate benchmarks for different resources, and allow the IPA to procure the bid combinations that meet the minimum carve out requirements.

With regard to the proposals to create a third category for mid-sized PV systems, ELPC believes that ISEA has advanced a compelling policy justification for its proposal. ELPC asserts that splitting the 25 kW to 2 MW size category into two separate segments would ensure a more balanced market developed from the small commercial sector, which would result in a healthier and more competitive solar market in Illinois. ELPC observes that SunEdison points out a number of compelling policy reasons for developing an additional size delineation for projects between 25 kW and 500 kW, noting that most leading U.S. and international solar incentive programs have utilized differentiated incentives to support the growth of diverse solar markets. ELPC also observes that the IPA acknowledges that policy justifications for a middle tier of system sizes could exist. The IPA, however, ultimately decided not to create a separate sub-

category for small commercial projects because it was not convinced that commercial system developers would be unwilling to participate in this procurement. If the Commission chooses to reject ISEA's proposal, ELPC urges the Commission to do so in a way that would preserve the IPA's discretion to split the 25 kW to 2 MW size category in future DG procurements if the IPA chooses to do so. In other words, regardless of the outcome, ELPC recommends that the order not reflect ComEd's argument that a future separate procurement would be contrary to the law.

6. Staff Position

Staff recommends that the Commission reject ISEA's proposal to split the 25 kW to 2 MW category into sub-categories. Staff concedes that ISEA may be correct that smaller commercial systems within that range are more expensive per unit and would be priced out of the market. Staff argues, however, that ISEA presents no coherent rationale for spending more to purchase the smaller systems within the 25 kW to 2 MW range. While the law clearly expresses a preference for purchasing RECs from systems both above and below the 25 kW level, Staff states that the law expresses no preference or requirement to split these systems into additional sub-categories. Staff maintains that ISEA's proposal will only increase the cost of acquiring RECs from the 25 kW to 2 MW category without sufficient justification for doing so.

Staff also questions ComEd's claim that the October 28, 2014 PV Plan calls for two separate procurements. Staff understands the IPA to be proposing a single procurement fully consistent with past practice. Staff points to the "Procurement Timeline and Scale," which shows four procurement events, and each event includes both market segments. (PV Plan at 21) The second reason behind Staff's understanding is the existence of only one procurement budget. Staff explains that in order to implement two separate procurements, it would be necessary to specify a budget for each of the two system size segments, but Staff observes that the PV Plan does not do that. For each procurement event, the PV Plan lists only a single budgeted amount for acquiring RECs of both segments. (Id.) The PV Plan does not break up these funds into a <25 kW segment and a 25 kW to 2 MW segment. If the Commission ultimately approves separate procurements for each of the two system size segments, Staff believes that it is imperative that the Commission, prior to those procurement events, approve separate budgets or authorize the IPA to adopt separate budgets. The third reason supporting Staff's perception that the IPA is proposing only one procurement is that the PV Plan states, "A similar method has been used by the IPA and its Procurement Administrator to select wind resources to satisfy the 75% target in past renewable energy resources procurement events under Section 1-75 of the IPA Act." (Id. at 8) Staff presumes that the IPA will clarify its intent in its own filing relating to ComEd's Objections. The simplest approach would be the one consistent with past practice, as recommended by ComEd. Staff has no objections to that approach. Indeed, Staff continues, that practice constitutes a well-reasoned means of implementing the provisions of Section 16-111.5(e) of the PUA and Section 1-75(c) of the IPA Act; and it would serve equally well in regard to Section 1-56(i) procurements.

Staff notes, however, that is not to say that this past practice is the only reasonable means of implementing those provisions.

7. IPA Position

The IPA alleges that the utilities mischaracterize its PV Plan when they reference separate procurements for each market segment. The IPA explains that for both its procurement of DG resources using hourly ACP funds in its 2015 Plan and for this PV Plan, it has proposed a process through which bids from all qualifying systems – <25 kW, and 25 kW to 2 MW – are evaluated on the basis of price, but bid selection is conducted by selecting the lowest price bid within the market segment representing less than 50% of RECs bid for delivery. The IPA maintains that this process does not constitute “separate procurement events” for each market segment; bid selection is conducted as part of a single procurement event utilizing a single RFP, with a statutorily mandated preference (system size) introduced as part of the criteria in bid selection.

Utilization of the past practice under Section 1-75(c)(1) of the IPA Act is preferred by the utilities. This approach is described on page 28 above. While the IPA believes that this approach is permissible under Section 1-75(c)(1), it strongly believes this proposal should be rejected for its Section 1-56(i) procurement for at least the following reasons. First, the IPA asserts that the utilities' proposed approach is only sensible in the presence of governing procurement targets. For procurements conducted under Section 1-75(c)(1) of the IPA Act—which the utilities stress is instructive—the IPA must meet a statutory REC procurement target (e.g. 10% of eligible retail customer load), which becomes manifest in a specific target number of RECs (e.g., 100,000 RECs). When that target amount is met, additional preferences may be introduced until the governing budget is exhausted. Section 1-56(i) features no such targets. There is no procurement amount to trigger the introduction of other criteria; there is only a budget. The IPA believes that it could easily receive lower-priced bids from large-scale systems exhausting this budget, thus precluding any procurement from systems below 25 kW in size. The IPA states that a 0% result can not be what drafters who developed a statutory 50% requirement envisioned, and a proposed process that so easily accommodates (if not encourages) such a result can not be viewed as consistent with this requirement.

Second, the IPA asserts that competing terms within a statute should be construed harmoniously. The IPA does not believe that the approach proposed by the utilities harmoniously balances a requirement that “to the extent available, 50% of the renewable energy credits procured from distributed renewable energy generation shall come from devices of less than 25 kilowatts in nameplate capacity” (20 ILCS 3855/1-56(i)(1)) with a requirement that “bidders must agree to the terms of the contract in advance so that winning bids are selected solely on the basis of price” (20 ILCS 3855/1-56(4)(D)). Instead, the IPA indicates that the utility approach could result in outcomes where system size plays no factor in any bid's selection, as the procurement budget could be exhausted solely through larger systems chosen by price. The IPA contends that its approach is far more harmonious and must therefore be adopted.

With regard to the recommendation that the PV Plan include additional size categories, the IPA responds that the relevant question is not whether there is significant growth potential for the small commercial PV market segment. Relative to existing solar deployment in Illinois, the IPA relates that there is significant growth potential within all solar market segments, however narrowly those segments are defined. By the end of 2013, the IPA reports that Illinois featured less than 44 MW of installed PV capacity. By contrast, in 2013 alone, over 470 MW of solar electric capacity was installed in New Jersey and Massachusetts. While the IPA does not speculate on potential prices resulting from its competitive procurement processes, it believes that its PV Plan is highly unlikely to fully satisfy Illinois solar power demand for any market segment at any reasonable price point.

The relevant question in the IPA's opinion is whether it would be justified in potentially paying a cost premium for SRECs procured from a small-commercial PV system versus SRECs from a large-commercial PV system. In either case, the IPA states that a contract for SRECs will help spawn the development of new PV, allowing for similar benefits to be captured—downward pressure on energy prices from new supply and reduced demand, more competitive prices for future years' RPS compliance, reduced emissions, economic development impacts, and so forth. As SRECs from either system size feature similar value, the IPA is unclear how such a cost premium may be justified.

The IPA suggests that a better argument for the introduction of a small-commercial procurement size category may be that the absence of such a category could create a chilling effect on the participation of small-commercial projects. Perhaps small-commercial PV system developers would be unwilling to bear the administrative costs of participation knowing that they may be competing against systems up to 2 MW in size, reducing the pool of bids available for selection. Otherwise successful bids will be among those never submitted, resulting in fewer RECs purchased for the same dollar amount. A third size category would then be necessary to ensure that the procurement achieves “the lowest total cost over time” by capturing increased participation.

The IPA concedes that this logic may be attractive, but contends that it is also purely speculative. The IPA is not aware of any evidence that small-commercial system developers will be unwilling to participate in its supplemental procurement process. Even within a 25 kW to 500 kW category, the IPA notes that a 100 kW system would still be forced to compete against significantly larger projects operating with different cost structures. The IPA is likewise unconvinced that all bids would come from systems at or near 2 MW in size without the introduction of a third size category. Many factors contribute to a new PV project's size—including available capital, physical space, and on-site energy load—and the dearth of existing 2 MW PV systems in Illinois (despite net metering availability for customers with load up to 2 MW) may demonstrate that the largest allowable system is unlikely to be developed for other reasons.

The IPA believes that it has taken steps in its PV Plan (such as reducing credit requirements and limiting project size for its first procurement event) to maximize bidder participation. The IPA also proposes a contingency procurement that may address under-served market segments should prior procurements reveal clear gaps. While the IPA believes that a third size category is not expressly prohibited under Section 1-56(i) of the IPA Act, and while the IPA is not strongly opposed to a category targeted at serving small-commercial projects, the IPA does not believe that the expected benefits of this approach outweigh expected costs.

ISEA's specific recommendation is that 50% of the budget be dedicated to systems <25 kW in size, with the remaining 50% split in some amount (25/25, 15/35) between 25 kW to <400 kW systems and 400 kW to 2 MW systems. The IPA states that this is based on ISEA's mistaken understanding that "[p]er Section 1-56(i), 50% of the budget must be dedicated to systems <25 kW." (ISEA Objections at 4) The IPA points out, however, that it is not "50% of the budget" which must be dedicated to smaller systems; the law states that "50% of the renewable energy credits procured" must come from systems <25 kW in size. (20 ILCS 3855/1-56(i)(1)) While separate budgets offer administrative ease, the IPA states that fixed budgets between smaller and larger systems may compromise compliance with this 50% requirement. If larger PV systems feature lower REC prices, more RECs will be procured from systems of 25 kW to 2 MW in size than from systems <25 kW in size. While the IPA does not believe that a third size category has been sufficiently justified, should such a proposal be adopted, the IPA believes that it should operate to better accommodate the existing size-based preferences expressly manifest in the law.

The IPA asserts that SunEdison's proposal also gives no indication of how a third size category would be applied to bid selection, whether separate budgets or procurement targets would be utilized, and what balance would be sought from each category. The IPA finds it difficult to envision how the Commission could adopt a third size category without an appropriately specific and detailed proposal in the record or a demonstration of how any such proposal would operate consistent with constraints enumerated in Section 1-56(i). This issue is critical from the IPA's perspective because a non-statutory size-based delineation must operate consistent with the size-based delineation present in the law. By failing to specify how a new size category would operate and whether it would be budget- or REC-based (or what allocation is requested between categories and why), the IPA finds SunEdison's proposal seriously flawed. Nonetheless, the IPA notes that its first procurement event features a 500 kW size limit, allowing an early opportunity for small systems to participate in the process without pressure from larger systems. For its subsequent procurement events with a 2 MW (DG) size limitation, procurement budgets expand significantly.

While the IPA believes that a third size category has not been sufficiently justified, it remains convinced that it indeed has statutory authority to conduct a procurement featuring a third size category so long as 1) the procurement remains designed to achieve 50% of procured RECs from systems under 25 kW in size, and 2) bids are selected on the basis of price. ComEd disagrees, arguing instead that Section

1-56(i)(4)(D)'s requirement that bids be selected "solely on the basis of price" would bar the introduction of a third size category. The IPA believes that this phrase is best understood in context. The full text of Section 1-56(i)(4)(D), "Standard Contract Forms and Credit Terms and Instruments," reads as follows:

The procurement administrator, in consultation with the Agency, the Commission, and other interested parties and subject to Commission oversight, shall develop and provide standard contract forms for the supplier contracts that meet generally accepted industry practices as well as include any applicable State of Illinois terms and conditions that are required for contracts entered into by an agency of the State of Illinois. Standard credit terms and instruments that meet generally accepted industry practices shall be similarly developed. Contracts for new photovoltaics shall include a provision attesting that the supplier will use a qualified person for the installation of the device pursuant to paragraph (1) of subsection (i) of this Section. The procurement administrator shall make available to the Commission all written comments it receives on the contract forms, credit terms, or instruments. If the procurement administrator cannot reach agreement with the parties as to the contract terms and conditions, the procurement administrator must notify the Commission of any disputed terms and the Commission shall resolve the dispute. **The terms of the contracts shall not be subject to negotiation by winning bidders, and the bidders must agree to the terms of the contract in advance so that winning bids are selected solely on the basis of price.** (20 ILCS 3855/1-56(i)(4)(D)) (emphasis added)

The IPA contends that nothing about a third procurement category would compromise its ability to use standard contract forms, preclude post-bid negotiations, establish contract terms in advance, and select winning bids on the basis of price. A third procurement category would merely impact the context in which that selection is made. The IPA believes that this is similar to its uncontested proposal to stage its procurement events. By ComEd's logic, a bid in a procurement event next spring is technically "shielded" against competing bids in a procurement event conducted in the following fall, and thus can not be selected absent a direct price-based comparison. Instead, for both a third size category and for staged procurement events, the IPA maintains that a direct comparison is made to other applicable bids with selection solely on the basis of price. The IPA states that bid selection proceeds entirely consistent with the law, and rules governing the procurement established through the PV Plan development and approval process (such as a third size category) simply alter the context in which the lowest priced bid is selected.

8. Commission Conclusion

To resolve this issue, the Commission must first address the utilities' argument that procuring RECs based on the PV system size is inconsistent with the duty to

acquire lowest cost RECs. The Commission agrees that the IPA is apt to receive lower-priced bids from large-scale systems. But doing so is likely to preclude any procurement from systems below 25 kW in size--which directly contravenes other statutory language in the IPA Act. As noted above, Section 1-56(i)(1) provides in part that "to the extent available, 50% of the renewable energy credits procured from distributed renewable energy generation shall come from devices of less than 25 kilowatts in nameplate capacity." The Commission finds that a procurement process that fails to take generator size into account and is likely to result in 0% of the RECs being procured from systems <25 kW can not be what drafters who developed a statutory 50% requirement envisioned. A proposed process that so easily accommodates (if not encourages) such a result can not be viewed as consistent with this requirement. All of the statutory language must be given harmonious meaning and the IPA's proposal most appropriately does so. In addition, the Commission finds ComEd's suggestion that the IPA is actually conducting more than one PV procurement to be without merit for the reasons offered by the IPA and Staff.

As for the legality of a third size category, the Commission finds nothing in the IPA Act that would bar the creation of such. But whether creating a third size category is appropriate is not entirely clear. Although the IPA concludes that a third size category is not necessary, it can apparently see at least some theoretical merit to the idea. ELPC, ISEA, and SunEdison favor the inclusion of a third size category and offer examples of other states that have offered an intermediate size category and benefitted from doing so. The Commission has considered the arguments and finds that it is appropriate to learn from the experience of other states and take this opportunity to encourage the broader development of the distributed solar market in Illinois consistent with the objectives of Public Act 98-672. Doing so is apt to improve the availability of SRECs for future procurements as well. That being said, however, the Commission will not at this time go as far as ISEA and others propose.

Section 5.1 of the October 28, 2014 PV Plan reflects the IPA's approximate timeline and budget as follows:

1. June 2015 (\$5 million; 5,000 REC maximum bid size for bids in the under 25 kW category, and 500 kW maximum system size for the 25 kW and above category).
2. November 2015 (\$10 million; no maximum bid size for bids in the under 25 kW category, and 2 MW maximum system size for the 25 kW and above category).
3. March 2016 (\$15 million; no maximum bid size for bids in the under 25 kW category, and 2 MW maximum system size for the 25 kW and above category).
4. Early 2017 (Contingency Event; balance of available funds, possible limitation on categories of systems that may participate).

As noted by the IPA, its first procurement event in June of 2015 essentially reflects a third size category of systems >25 kW to 500 kW. The Commission supports this proposal and considers 500 kW a reasonable cut-off point because 500 kW is a common capacity for commercial solar inverters according to SunEdison. In furtherance of promoting an intermediate size category, the Commission directs the IPA

to revise its second procurement event in November of 2015 to include a category of >25 kW to 500 kW and a category of >500 kW to 2 MW. Of the RECs acquired in this procurement event, approximately 15% should be obtained from the >25 kW to 500 kW category, as suggested by ISEA and SunEdison. The second procurement event set forth in Section 5.1 of the PV Plan could be revised to read:

2. November 2015 (\$10 million; no maximum bid size for bids in the under 25 kW category (representing 50% of RECs in this procurement event), >25 kW to 500 kW category (representing 15% of RECs in this procurement event), and 2 MW maximum system size for the >500 kW and above category (representing 35% of RECs in this procurement event)).

While this introduction of a third size category is limited to the November 2015 procurement event, the Commission believes that it strikes a reasonable balance among the parties' arguments and offers an additional opportunity to smaller commercial installations to participate in the PV Plan without having to compete against significantly larger projects. To be clear, the IPA is not restricted from adopting more than two size categories in a fourth procurement event if the IPA concludes that earlier events under the PV Plan suggest it would be advantageous to do so.

E. Metering of Generation Systems (Section 3.1)

The October 28, 2014 PV Plan refers to “utility-scale” generation as not being located behind a utility’s meter. AIC states that the IPA should be aware that due to AIC's status as an integrated distribution company, all generation interconnected with the AIC system is metered. AIC suggests that the better distinction may be between DG, which is intended to offset a customer’s load, and merchant generation, which exists only to sell generation into the grid.

In response to AIC's concern, the IPA notes that the IPA Act defines distributed generation, in part, as “located on the customer’s side of the customer’s electric meter.” (20 ILCS 3855/1-10) Given this definition, the IPA proposes referencing “utility-scale” generation as not being located behind the *customer’s* meter in the PV Plan. In the alternative, the IPA does not oppose adopting the term “merchant generation” to replace “utility-scale generation” in the PV Plan.

Given AIC's lack of a reply to the IPA's proposed modification to the PV Plan, the Commission understands AIC to accept the IPA's proposed modification. The IPA's initial suggestion seems preferable to the Commission as it is clearer. The IPA's second suggestion, while understood in context, may inadvertently create confusion elsewhere in the PV Plan since it is not clear whether the IPA intends to adopt the term "merchant generation" throughout the PV Plan. The Commission directs the IPA to implement its initial suggestion and simply reference "utility-scale" generation as not being located behind the customer’s meter in the PV Plan.

F. "New" System Qualification (Sections 3.1 and 4.1)

In Section 3.1, the October 28, 2014 PV Plan defines a new system as one that's energized on or after the date of approval of the PV Plan. Section 4.1 defines system energization as the date on which the first meter read is entered into the applicable tracking system. AIC considers these definitions inconsistent. AIC states that one does not have to register with either M-RETs or GATs immediately when the generator begins producing power – the registration is only required when the generator owner begins receiving RECs. If left unchanged, AIC asserts that numerous existing solar generators would qualify as "new" under the criteria in Section 4.1, and they would also be grandfathered/exempted from the installer criteria. To minimize confusion and ensure consistency with its intent to stimulate the development of new solar DG, AIC recommends that the PV Plan strike "(defined as the first meter read registered in the applicable tracking system.)" from Section 4.1. The IPA agrees with this concern and supports AIC's revision, leaving the date of system energization as the relevant date in determining whether a system is a "new" system. The Commission concurs with this revision and directs the IPA to incorporate it into the PV Plan.

G. Small System Third-Party Administrator (Section 4.2.1)

1. ISEA Position

Although the concept was met with some resistance during the regular procurement comment period leading to Docket No. 14-0588, ISEA continues to advocate for a third-party administrator in the <25 kW market. ISEA is primarily concerned that the IPA's traditional model for energy procurement will not work for the small system market. In particular, ISEA is concerned that the past method will be confusing for homeowners who must already navigate the confusion of municipal aggregation and a complicated energy market. Further obstacles could hamper solar adoption rates and the successful delivery of 50% of the special procurement <25 kW RECs. As such, ISEA advocates for a streamlined, transparent, and equitable mechanism for REC participation by awarding a single entity the management of the <25 kW systems. ISEA states that this could be achieved through a competitive bid process run specifically for the <25 kW segment. Potential aggregators/administrators would bid into the RFP and a single winner would manage all REC procurements for <25 kW systems. The IPA could require eligible bids to provide itemized detail regarding a standard fixed price that would be offered to home owners as well as any management fees to be charged if awarded the bid. ISEA believes that this method would allow for the transparency needed to ensure the best REC price while keeping management costs low. If necessary, ISEA suggests that separate performance blocks could be set up for each procurement period to stimulate interest and scale development over time across the state. A budgetary review could be established to determine if the program was achieving the target and adjustments could be made in remaining procurement events.

ISEA understands that energy procurement in Illinois differs vastly from procurement in other states. By structuring the bid in this manner, however, ISEA contends that the execution could mirror the successful programs that have been launched on the East Coast. Additionally, ISEA opines that this could assure a level playing field for installers, allowing this nascent market to focus on system installation and expanding the number of energized assets across the state. ISEA explains that system buyers would have transparent and equal REC prices for economic analysis, a single point of contact for participation, an understanding of the process and requirements, and an assurance that they are receiving benefits equal to others enrolled in the REC program. Combined, ISEA believes that the benefits of this structured approach will speed projects to market and create the assurances that developers would need in order to expand operations in Illinois, thereby achieving the desired clean energy and economic impact sought by the General Assembly.

If the IPA opts not to develop this approach, ISEA requests clarification on safeguards that consumers could expect to enable them to compare services for this potentially confusing decision. To demonstrate its concern, ISEA notes that the Commission currently hosts the “Plug In Illinois” website which allows consumers to research competitive energy suppliers and compare prices and services. ISEA urges the Commission to develop a similar tool for the <25 kW REC aggregator program. ISEA states that the process must let potential aggregators know when they can begin to sign up participants since both identified and speculative bids will be provided in the bidding process. ISEA also recommends the adoption of guidelines on the statements or claims a prospective aggregator can make regarding REC prices if an aggregator has not already been accepted into the special procurement. ISEA still has many concerns and questions about how this will be executed in the marketplace so as to avoid confusion, misleading advertising, potential fraud, and delays in development if there are many aggregators with varying offerings in the early stages of this program.

2. ComEd Position

ComEd criticizes ISEA's suggestion of a third-party administrator in the <25 kW market on the grounds that it is inconsistent with governing law. While the IPA argued in the regular procurement docket, Docket No. 14-0588, that ISEA's suggestion is contrary to Section 16-111.5 of the PUA and the docket at hand is conducted under Section 1-56(i) of the IPA Act, ComEd nevertheless contends that Section 16-111.5 is similar enough to Section 1-56(i) to apply the objections made in Docket No. 14-0588 to ISEA's proposal in this proceeding. (Compare 20 ILCS 3855/1-56(i)(4) with 220 ILCS 5/16-111.5(c)(2), (e)) As a result, ComEd maintains that ISEA's requests for appointment of a third-party administrator and for use of a standard fixed price are incompatible with Section 1-56(i) for the same reasons they are incompatible with Section 16-111.5. ComEd urges the Commission to find that there is no statutory provision that would allow for a standard offer price to be provided to small facilities and that ISEA's recommendation must therefore be rejected.

3. Staff Position

In response to ISEA's recommendation that the IPA utilize a "third-party administrator" in order to create a standard and consistent REC offering pertaining to systems <25 kW, Staff states that there is nothing in the IPA's proposal that would prevent a single aggregator from winning all contracts in the IPA's RFP and making its own standard offer to owners of systems <25 kW. The issue, as Staff sees it, is whether the IPA is permitted to make a "standard offer." In that regard, Staff contends that Section 1-56(i)(4)(E) of the IPA Act is clear that the IPA's procurement administrator shall issue a request for proposals and that:

The requests for proposals shall set forth a procedure for sealed, binding commitment bidding with pay-as-bid settlement, and provision for selection of bids on the basis of price, provided, however, that no bid shall be accepted if it exceeds the benchmark developed pursuant to item (F) of this paragraph (4).

Hence, Staff believes that it is clear that the IPA may not make a standard offer. Since ISEA does not seem to be advocating that the IPA make a standard offer, however, and because the IPA's plan already allows a single aggregator to win all contracts in the IPA's RFP and to subsequently make its own standard offer to owners of systems <25 kW, Staff considers ISEA's proposal moot.

4. IPA Position

The IPA finds ISEA's third-party administrator proposal unwarranted, confusing, and inconsistent with the law. First, ISEA states that consistent with Section 1-56(i)(1), its proposed approach for this procurement relies on the use of "aggregators," who "shall enter into and administer contracts with individual distributed renewable energy generation device owners." (20 ILCS 3855/1-56(i)(1)) As the law envisions homeowners interfacing with third-party aggregators and not with the IPA's procurement process, the IPA believes statements about how this process would be "confusing" to homeowners are misguided and irrelevant.

The IPA's second argument against ISEA's proposal is that it is unclear what responsibilities would accompany "management" of <25 kW REC procurements by a third-party administrator and how this assignment of responsibility would operate consistent with the law. No effort is made to frame this proposal within the strictures of Section 1-56(i) of the IPA Act or to explain how this delegation of "management" authority is statutorily authorized. Nor, the IPA continues, is any effort made to define who would serve as a contractual counterparty with the IPA, whether the IPA's contract resulting from an RFP for an "administrator" would carry an enforceable legal obligation for the delivery of RECs, or how winning bids within the <25 kW segment could be selected on the basis of price.

Third, the IPA points out that procurements under Section 1-56(i) already “shall include” a “procurement administrator;” its responsibilities are delineated in Section 1-56(i)(4) of the IPA Act. The IPA outlines those responsibilities and its choice of procurement administrator in its PV Plan. The IPA states that no effort is made to demonstrate why (presumably) an additional procurement administrator is necessary, how an additional procurement administrator is justified under the law, or how responsibilities would be shared between two procurement administrators.

The IPA also expresses skepticism as to whether ISEA’s proposal, as understood, would result in lower costs or a more subscribed procurement. The primary benefits of this approach, as best the IPA can tell, are the certainty of a fixed uniform standard price for homeowners and a single point of contact. The IPA, however, believes it may be more preferable to have aggregators competing to offer their respective prices to homeowners through multiple, competing points of contact.

In response to ISEA’s statement that “[t]he process must let potential aggregators know when to begin to sign up participants” (ISEA Objections at 6), the IPA asserts that it is unclear what constitutes a “participant.” The IPA indicates that potential bidders (i.e., direct “participants” in the IPA’s procurement process) will learn the contours of participation upon the release of the Commission’s order and the development of standard contract forms thereafter. Eligibility for system owners is proposed as a function of whether that owner’s system was energized at or after the earliest date a PV system is considered to be “new.” The IPA states further that the October 28, 2014 PV Plan concerns how the IPA plans to use \$30 million to competitively procure SRECs, and the IPA is not seeking to further govern an aggregator’s customer acquisition process (nor does the law contemplate such a role).

With regard to ISEA’s proposal that there should be guidelines on the statements or claims a prospective aggregator can make regarding REC prices if an aggregator has not already been accepted into the special procurement, the IPA understands ISEA to be asking that the Commission or the IPA exercise regulatory authority over statements made by solar developers who may not be participating or winning bidders in supplemental procurement events. The IPA states that such authority can not be created or exercised through the approval of this supplemental procurement plan.

5. Commission Conclusion

The Commission commends ISEA for its concern for the owners of small PV systems. Negative REC procurement experiences by some small PV system owners may have a chilling effect on other’s interest in the REC procurement process and in PV overall. How to implement ISEA’s proposal, however, is unclear. Moreover, in light of the procurement process set forth in the PV Plan, it is not certain that the mechanisms sought by ISEA are practical or warranted. As Staff indicates, neither the IPA Act nor the PV Plan prevents third-party aggregators from working with small PV system owners and bidding in the procurement process. To the extent that ISEA is asking the IPA to offer or establish a standard fixed price, there does not appear to be any

statutory authority to do so. With regard to representations made by and the general behavior of third-party aggregators and administrators, the types of guidelines that the Commission understands ISEA to be seeking are best determined through a rulemaking docket. As discussed above, insufficient time exists to develop appropriate rule language and satisfy the requirements of the APA. In other words, a final rule may not be adopted in time to provide much benefit.

One aspect of ISEA's recommendations that the Commission supports pertains to the provisioning of information via website. Homeowners and other small PV system owners (<25 kW) may benefit from having access to clear, basic information about the procurement process, at least as it relates to systems <25 kW. ISEA cites the "Plug In Illinois" page on the Commission's website as an example of what it suggests. The value of placing such information on the Commission's website, however, is uncertain. Stated another way, the Commission is not sure how many small PV system owners will seek information on the Commission's website about a SREC procurement overseen by the IPA. The IPA's website seems a more suitable location for such information. The Commission recommends that the IPA develop a webpage analogous to the Commission's "Plug In Illinois" webpage to provide basic information in layman's terms to potential participants in the SREC procurement for <25 kW PV systems. If the IPA creates such a webpage, the Commission directs Staff to provide a link on the Commission's website to the IPA's webpage on the SREC procurement for <25 kW PV systems.

H. Credit Requirements (Section 4.3)

In the draft PV Plan, the IPA proposed credit requirements through bid deposits of \$20/REC for "speculative" bids and \$10/REC for identified projects. Based on feedback received from ISEA that such requirements may be too strict, the IPA lowered this amount to \$16/\$8, allowed for letters of credit as a form of deposit, and modified the deposit delivery schedule to allow for only half the deposit amount to be required at the time of a bid.

ISEA acknowledges and appreciates the effort by the IPA to consider a lower deposit requirement. After polling its current business members, however, ISEA reports that the general consensus is that the deposit requirements of \$16/REC for speculative and \$8/REC for identified projects will impede system developers from bidding. Given the length of time the deposit will be held and the amounts required to reach what it understands to be a 500 kW minimum, ISEA respectfully requests that the IPA consider further reducing the deposit amounts to \$10/REC for speculative and \$5/REC for identified projects. ISEA maintains that this should ensure that the businesses currently serving the solar market in Illinois will be able to participate while also providing the assurances to the IPA that the prospective bidders have adequate financial obligations to reflect quality, realistic, and achievable bids.

In response to ISEA's concerns, the IPA states that determining credit requirements requires the IPA to strike an important balance. While it is vital that this

process features broad participation to foster a competitive procurement, the IPA must guard against resources being tied up with low-probability, poorly supported, or bad-faith bids. The IPA acknowledges that if the credit requirement is too high, worthy but under-capitalized bidders will be precluded from participation; too low, and undeserving market participants may win contracts. Through its revisions, the IPA believes that its proposed credit requirements strike an appropriate balance. Appendix 6.2 of the PV Plan features a survey of procurement features, including deposit requirements, from programs in other states; it reveals that the IPA's proposed deposit requirements are consistent with similar requirements in other jurisdictions. Additionally, as only half a deposit amount is due with a bid, the IPA points out that bidders must mobilize significantly less capital to participate in the procurement process than in other states.

The IPA also notes that in its Objections, ISEA makes mention of deposits being required "to reach the 500 kW minimums." (ISEA Objections at 7) The IPA wishes to clarify that there is no "500 kW minimum" associated with the proposed procurement. The IPA's proposed minimum bid size is 500 RECs. Based on the October 28, 2014 PV Plan's proposed capacity factor (which is itself based upon comments ISEA provided on the draft PV Plan), the IPA indicates that 500 RECs over five years would be the equivalent to approximately 80 kW of installed PV. Sixteen 5 kW systems could thus qualify as a minimum bid, carrying a deposit requirement ranging from \$4,000 to \$8,000 (depending on the mix of identified and speculative systems) with only half that amount due at bidding. While it seeks to avoid developing unnecessary barriers to entry, the IPA does not believe that these amounts should be onerous for viable aggregators capable of turning winning bids into operating systems.

The Commission understands ISEA's concerns and agrees with the IPA's characterization of the balancing act that it must engage in. In light of the concerns that the IPA must balance and the range of the overall amounts at issue (see the IPA's example above), the Commission does not find the \$16/REC for speculative projects and \$8/REC for identified projects unreasonably burdensome. Parties should also keep in mind that only half of the deposit is due at the time of the bid and that a Letter of Credit also exists as an option. Accordingly, for purposes of this proceeding, the Commission approves of the credit requirements in the October 28, 2014 PV Plan.

I. Tracking and Transfer of RECs (Section 4.5)

According to AIC, the October 28, 2014 PV Plan contains inconsistencies between its definition of what constitutes a REC and what the two authorized REC tracking organizations define as a REC. To demonstrate its point, AIC states that in Section 4.5 the PV Plan relates that RECs must be tracked through a single metering point, while M-RETS provides for the aggregation of small generators with multiple metering points into a single entity for purposes of calculating and reporting RECs. (See M-RETS Operating Procedures, Section 3.3.2) Instead of providing its interpretation of how a REC is created, AIC contends that the PV Plan would best support generation customers by simply deferring to M-RETS and GATS to determine what constitutes a REC. AIC states that doing so would not limit the IPA from imposing its legislatively

mandated requirements that RECs come from a system installed by an appropriately certified installer and where operation begins subsequent to the approval of the PV Plan.

Finally, AIC notes that in prior contracts resulting from IPA procurements for eligible retail customers, North American Renewables Registry ("NARR") was deemed to be an acceptable REC tracking system in addition to GATS and M-RETS. AIC states that the IPA may wish to consider adding NARR if the IPA deems it would be beneficial. As an alternative, AIC suggests that the IPA agree to use an alternate tracking system in the future other than GATS and M-RETS upon written approval of the IPA. AIC believes that doing so may provide greater flexibility to the IPA and suppliers in the future should tracking systems change.

In response to AIC's concerns, the IPA believes that having more stringent requirements than M-RETS is not a serious concern, and absent a better understanding of what problems its definition may create, does not support changes to its definition. With respect to AIC's proposal that the IPA include NARR as an additional tracking system, because the IPA is seeking to procure only RECs from DG systems (which are by law systems located in Illinois), the IPA believes exclusive reliance on GATS and M-RETS is sufficient.

The Commission shares the IPA's concerns about changing the definition of what constitutes a REC in the absence of a better understanding of what problems may arise with such a change. Similarly, it is not clear to the Commission what would be gained by adding the NARR tracking system for RECs. This is not to say that use of NARR in the past was in error or should not be considered in the future. Rather, the record in this docket simply does not demonstrate why reliance on GATS and M-RETS is insufficient or why it is appropriate to add NARR. Accordingly, the Commission sees no reason to modify the PV Plan with regard to the tracking and transfer of RECs.

V. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having reviewed the entire record, is of the opinion and finds that:

- (1) Section 1-56(i) of the IPA Act requires the procurement of SRECs by the IPA using \$30,000,000 from the RER Fund;
- (2) pursuant to Section 1-56(i)(3) of the IPA Act, Commission approval of the IPA's plan to implement Section 1-56(i) is necessary;
- (3) the Commission has jurisdiction over the subject matter hereof;
- (4) the recitals of fact and legal argument identified as the parties respective positions are supported by the record;

- (5) the recitals of fact and conclusions of law reached in the Commission Conclusion portions of this Order are supported by the record and are hereby adopted as findings of fact and conclusions of law for purposes of this Order;
- (6) subject to the modifications adopted in the prefatory portion of this Order, including such recommendations and objections as are approved above, the PV Plan filed by the IPA pursuant to Section 1-56(i) of the IPA Act should be approved; as modified, the PV Plan will ensure adequate, reliable, affordable, efficient, and environmentally sustainable electric service at the lowest total cost over time, taking into account any benefits of price stability; in making this finding, the Commission is not expressing its concurrence in every statement or opinion contained in the PV Plan and no presumptions are created with respect thereto; and
- (7) all motions, petitions, objections, and other matters in this proceeding which remain unresolved should be disposed of consistent with the conclusions herein.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that subject to the modifications adopted in the prefatory portion of this Order, the Supplemental Photovoltaic Procurement Plan filed by the Illinois Power Agency pursuant to Section 1-56(i) of the Illinois Power Agency Act is hereby approved.

IT IS FURTHER ORDERED that the Illinois Power Agency shall file in this docket within 30 days of entry of this Order the final version of its Supplemental Photovoltaic Procurement Plan consistent with the conclusions contained in this Order.

IT IS FURTHER ORDERED that all motions, petitions, objections, and other matters in this proceeding which remain unresolved are disposed of consistent with the conclusions herein.

IT IS FURTHER ORDERED that, subject to 83 Ill. Adm. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

DATED: December 9, 2014

Briefs on Exceptions must be received by December 22, 2014.

Briefs in Reply to Exceptions must be received by December 30, 2014.

John D. Albers
Administrative Law Judge